

Item SP06-14 Response Form

Title: Judicial Branch Education: Minimum Education Requirements for the Judicial Branch (repeal Cal. Rules of Court, rules 970 and 5.30; adopt rules 6.401, 6.402, 6.411, 6.412, 6.413, 6.414, and 6.421)

- ☐ **Agree** with proposed changes
- ☐ **Agree** with proposed changes **if modified**
- ☐ **Do not agree** with proposed changes

Comments: _____

Name: _____ Title: _____

Organization: _____

☐ **Commenting on behalf of an organization**

Address: _____

City, State, Zip: _____

Please **write** or **fax** or **respond using the Internet** to:

Address: Ms. Romunda Price,
Judicial Council, 455 Golden Gate Avenue,
San Francisco, CA 94102
Fax: (415) 865-7664 **Attention:** Romunda Price
Internet: www.courtinfo.ca.gov/invitationstocomment

DEADLINE FOR COMMENT: 5:00 p.m., Monday, July 24, 2006

Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

*Circulation for comment does not imply endorsement by the Judicial Council
or the Rules and Projects Committee
All comments will become part of the public record of the council's action.*

Title	Judicial Branch Education: Minimum Education Requirements for the Judicial Branch (repeal Cal. Rules of Court, rules 970 and 5.30; adopt rules 6.401, 6.402, 6.411, 6.412, 6.413, 6.414, and 6.421)
Summary	The proposed rules would establish additional minimum education requirements for the judicial branch in several respects. They would (1) increase minimum education requirements for new trial court judges and subordinate judicial officers; (2) establish minimum education requirements for new presiding judges, new supervising judges, and judges or subordinate judicial officers who are changing primary assignments; (3) establish minimum continuing education requirements for trial court judges and subordinate judicial officers; and (4) establish minimum orientation and continuing education requirements for trial court executive officers, managers, supervisors, and personnel.
Source	Governing Committee of the Center for Judicial Education and Research (CJER)
Staff	James M. Vesper, Assistant Director, Education Division/CJER, 415-865-7797, jim.vesper@jud.ca.gov
Discussion	<p><u>Introduction and Overview</u></p> <p>The rules concerning education requirements for the judicial branch are currently scattered in the California Rules of Court. For instance the rule containing education requirements for new judges is included in a miscellaneous title of the rules of court, and the rule containing education requirements for judges with family law assignments is included with the family court rules. In addition, the current rules are incomplete; they do not make up a system of education requirements. There are education requirements for new judges, but no general requirement for continuing education for judges. There are several rules with education requirements for specific types of trial court personnel, but there are no education requirements that apply to all court personnel, both new to their positions and experienced.</p> <p>The California Judicial Council has long been a leader in judicial branch education, initially offering courses for judges in 1959 and for court personnel in 1989. In a post-modern society with a constantly and rapidly changing body of law, the council should take a leadership role to ensure that the professional competency of judges and court personnel is maintained and improved by establishing and</p>

administering a system of orientation and continuing education that includes minimum education requirements. The public expects and should receive the highest quality of justice and service from the courts, regardless of court location, specific judge, or specific court personnel.

Recommendation

The Governing Committee of the Center for Judicial Education and Research recommends that the Judicial Council adopt a comprehensive set of rules that would set forth a system of minimum education requirements for trial court judges and subordinate judicial officers, court executive officers, and managers, supervisors, and personnel.

The proposed rules would ensure the professional competency of judges and court personnel by establishing a system of minimum education requirements. They would represent a determination from within the judicial branch of the appropriate level of education requirements for judges and court personnel, rather than as determined by others outside the branch, such as the Legislature. And the rules would strike a balance between minimum education requirements and discretion and options at the individual and local court levels. Finally, the proposed rules would strike a balance on the fiscal impact on the courts and on the impact of time away from their duties for judges and court personnel.

Background and History of Proposal

The CJER Governing Committee, which has studied, formulated, and recommended these proposed rules, consisted until recently of eight judges and three court executive officers. The committee recently expanded its membership by an additional six judges, with new members added from the Access and Fairness, Civil and Small Claims, Criminal Law, Family and Juvenile Law, and Probate and Mental Health Advisory Committees.

The committee began considering whether to make a recommendation to the Judicial Council to enhance minimum education requirements for the judicial branch in the fall of 2003. The first year included research regarding minimum education requirements in other state judicial systems, exploration of possible models of minimum education

requirements that might meet the needs of the California judicial system, and a branchwide survey of participation in education in California.

Based on data provided by the National Center for State Courts, Court Statistics Project, as of September of 2005, 42 states had continuing education requirements for general jurisdiction judges. The required hours ranged from 10 hours per year in Florida to 64 hours per year in Vermont. Four states, including California, had education requirements for new judges but no required continuing education.

In September 2004, staff conducted a branchwide survey to determine current participation in education programs in California. Judges (based on 324 respondents) reported participating in an average of 26 hours of continuing education each year. Court personnel (based on 1,167 respondents) reported participating in an average of 8 hours of continuing education each year. (The survey results concerning the average number of hours of continuing education may have been affected by the state fiscal crisis that spanned the time period for which the information was gathered.)

In 2004, the committee developed an example of minimum education requirements for the judicial branch and presented the example through a variety of means to numerous groups and solicited feedback.

Representatives of the committee met twice with members of the Judicial Council in issues meetings on April 22, 2004, and February 17, 2005. The initial meeting resulted in the council's directing the committee to do further research. The second meeting resulted in the council's encouraging the committee to continue gathering feedback, refining the example, and developing a proposal.

The second year of the committee's work included an extensive information gathering process with several initiatives involving presiding judges, judges, court executive officers, managers, supervisors, and court personnel. The committee developed and implemented a process with the intent that it be open and inclusive to all in the branch. Thus, the committee provided the example in some way to everyone in the branch, invited feedback from individuals and groups, discussed all the feedback that was received, and through a deliberative process responded to the feedback by incorporating

changes to the example.

In April 2005, the chair of the committee presented the example to presiding judges and court executive officers in all three AOC regions and asked for written responses. Thirteen written responses were received. Feedback at the time was: 10 respondents were supportive of the example, and 3 raised concerns or were opposed. In June, representatives of the committee presented the example to a joint meeting of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee. The minutes of the joint advisory committees' meeting provide:

In a voice vote, the joint committees agreed to support the minimum education requirements with a couple of votes in opposition.

In May 2005, the chair of the committee asked members of the Executive Board of the California Judges Association to provide collective feedback. The board submitted the following statement, without further explanation:

CJA is strongly in favor of enhanced voluntary educational opportunities for judicial officers, and additionally, CJA requests that adequate resources be made available to permit officers to utilize these opportunities.

Also in May 2005, the minimum education requirements example was submitted to all judges and, through executive officers, to select managers, supervisors, and court personnel. (This branchwide survey provided another opportunity for presiding judges, court executive officers, and members of the CJA Executive Board to offer individual feedback.) The information below is a summary of the feedback received from that process. Respondents in the "Not Categorized" column answered questions in such a way that it was difficult to determine whether they were supportive of or opposed to the example as a whole.

Group	Respondents	Supportive	Not categorized	Opposed
Judicial officers	160	75%	6%	19%
Executive officers	10	100%	--	--
Managers/ supervisors	195	97%	--	3%

Court personnel	456	97%	.6%	2.4%
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The committee analyzed this information along with all the other feedback it had received and along with existing continuing education requirements in California and in other states and the existing standard of judicial administration in California (for judges, a recommendation of 8 days of education and additional days serving as faculty per year; see section 25.1(e), (h) of the Standards of Judicial Administration). The committee determined that establishing *minimum* requirements would be the most effective model for the California judicial branch. Such a model would ensure that all judges and court personnel continue their education but (a) would not replace the standard that recommends a greater degree of participation for judges and (b) would have less of a fiscal impact on the courts than implementing a more comprehensive requirement.

One alternative considered was to leave educational requirements as they currently exist. The many ramifications of this alternative include: educational requirements imposed by the Legislature (such as the recent Assembly Bill 1825 sexual harassment training); a lack of continuing professional education for many judges and court personnel; and uneven service to court users stemming from the uneven knowledge, skills, and abilities of judges and court staff.

Another alternative considered was to recommend a more comprehensive model for minimum education requirements than that being proposed. The ramifications of this alternative, relative to the proposal, include: less discretion at the individual and local court levels regarding decisions about professional education; greater fiscal burden on the courts; more time away from their duties for judges and court personnel; and possible increased resistance to minimum education requirements.

The committee refined the example by considering all the information and feedback it had received and determining what changes should be incorporated to improve it and developed it into a proposed model for minimum education requirements for judges and court personnel. The committee presented the proposed model to the Judicial Council at its November 4, 2005, business meeting. The Judicial Council approved the proposed model and directed the committee to draft proposed rules to implement the model and to send the proposed rules out for public comment for later council consideration.

Judicial Council's Rule-Making Authority

The Administrative Office of the Courts has concluded that the Judicial Council has the authority to require education for judges under article VI, section 6(d) of the California Constitution, which addresses the council's authority and provides in part that, to improve the administration of justice, the council has the authority to adopt rules for court administration, practice, and procedure that are not inconsistent with statute. The council's authority to promulgate rules requiring minimum education for judges is fully addressed in an Office of the General Counsel opinion, attached as an appendix to this Invitation to Comment.

Description of Proposed Rules

The proposed rules would be organized in Title Six (Judicial Administration Rules), Division II (Administration of the Judicial Branch), in a new Chapter 5: Minimum Education Requirements. If these rules are adopted, rules 970 and 5.30 will be repealed because they will be superseded by the new rules. The text of the proposed rules and of repealed rules 970 and 5.30 is included at pages 12-27 of this Invitation to Comment. The proposed rules are described below.

Rule 6.401

Rule 6.401 would cover judicial branch education generally. Subdivision (a) would be based on current rule 970(a) and would set forth the purpose of judicial branch education—to enhance the fair, effective, and efficient administration of justice. It would provide that participation in education is part of the official duties for justices, judges, subordinate judicial officers, and court personnel. It also would provide that the responsibility for overseeing judicial branch education properly resides in the judicial branch.

Subdivision (b) would be based on current rule 970(b). It would set forth the primary objectives of judicial branch education, such as providing branch members with the knowledge, skills, and abilities to perform their responsibilities competently, fairly, and efficiently.

Rule 6.402

Rule 6.402 would cover minimum education requirements generally. It would be based in part on current rule 970(a). Subdivision (a) would state that each member of the judicial branch is responsible for maintaining and improving his or her professional competence. The Judicial Council, in turn, will develop and maintain a comprehensive and high-quality education program, including minimum education requirements, to provide educational opportunities that assist all members of the branch in achieving professional competence.

Subdivision (b) would describe the two complementary goals of the minimum education requirements: (1) to ensure that both individuals who are new to the bench or the court and those who are beginning a new assignment or role obtain the education they need to be successful, and (2) to establish broad parameters, based on time, for continuing education, to preserve the individual's and the court's ability to determine the appropriate content and provider.

Subdivision (c) would state the relationship of the minimum education requirements in rules 6.411–6.414 to the education standards in sections 25.1–25.6 of the California Standards of Judicial Administration. The proposed education requirements would be minimum requirements; they would not be intended to limit or replace the standards that recommend a greater degree of participation in education.

Subdivision (d) would cover the responsibilities of administrative presiding justices. It would be based on current rule 970(g) and section 25.1(b) of the California Standards of Judicial Administration. Each administrative presiding justice would be required to grant to new Court of Appeal justices sufficient educational leave to enable them to complete the minimum education requirements stated in rule 6.411 and to grant to all justices sufficient leave to participate in education, consistent with section 25.1 of the standards.

Subdivision (e) would cover the responsibilities of presiding judges and court executive officers. The responsibilities of presiding judges would be based in part on current rule 970(g) and section 25.1(b) of the standards. The responsibilities of court executive officers would be modeled in part on those provisions and in part on section 25.6(b) of the standards. Each presiding judge would be required to grant sufficient educational leave to all judges and subordinate judicial

officers and to the court executive officer to enable them to complete the minimum education requirements stated in the rules and to grant them sufficient leave to participate in education, consistent with the standards. Similarly, each court executive officer and the court's managers and supervisors would be required to grant sufficient educational leave to all court personnel to enable them to complete the minimum education requirements in the rules and to grant them sufficient leave to participate in education, consistent with the standards. Each presiding judge and court executive officer also would consider requests for extensions of time to complete education requirements.

Rule 6.411

Rule 6.411 would set forth the minimum education requirements for new Court of Appeal justices. This provision would be carried forward without change from current rule 970(e)(2). The CJER Governing Committee found that the work and therefore the educational needs of appellate justices are different from those of trial court judges. The committee decided that it was best to focus on addressing education requirements for the trial courts at this time and that the committee would then address possible requirements for the appellate courts if this proposal were adopted. The only minimum education requirement in the proposed rules for justices is what would be carried forward from current rule 970. The standards do apply to justices (see section 25.1(j) of the standards).

Rule 6.412

Minimum education requirements for trial court judges and subordinate judicial officers would be contained in rule 6.412. The content-based requirements in subdivision (c) would apply to new judges and new subordinate judicial officers and to judges beginning a new role or assignment. The content-based requirements for new judges would be based in part on current rule 970(e)(1); a requirement would be added for an orientation course in his or her primary assignment. Content-based requirements would also be added for new supervising judges, new presiding judges, and judges beginning a new primary assignment. (Current rule 5.30 covers judicial education for family court judicial officers. Its provisions would be inconsistent with those of proposed rule 6.412. If the proposed rules are adopted, rule 5.30 will be superseded and should be repealed. Current rule 5.340 covers judicial education for commissioners whose principal

assignment is to hear child support matters. Its provisions would not be inconsistent with proposed rule 6.412; it need not be repealed.)

Subdivision (d) would cover the new hours-based requirement for judges and subordinate judicial officers. After they have completed the required new judge education, they would be required to complete 30 hours of continuing judicial education every three years. Continuing education requirements for judges in other states range from 10 hours per year in Florida to 64 hours per year in Vermont. The proposed requirement would fall in the low end of that range. Each judge or subordinate judicial officer would have an individual three-year period that starts on January 1 after he or she completed the required new judge education.

The education required for new judges would not apply toward the 30 hours, but the other content-based courses would apply toward the 30 hours. Any education offered by any approved provider (see rule 6.421(a)) and any other education approved by the presiding judge as meeting specified education criteria (see rule 6.421(b)) would apply toward the 30 hours. This would include education taken to satisfy a statutory or other education requirement (such as sexual harassment training required by Assembly Bill 1825). Both traditional and distance education would apply toward the 30 hours. The hours counted for participation in online coursework and self-directed study would be limited. Additional hours would be allowed for faculty service, but the total hours applied for faculty service would be limited.

Subdivision (e) would provide that a judge or subordinate judicial officer may request from the presiding judge an extension of time to complete some of the content-based requirements or to complete the hours-based requirement. An extension of time would not be allowed for the content-based requirements for new judges. The presiding judge would have the authority to grant a request for an extension of time for good cause.

Subdivision (f) would provide that each judge or subordinate judicial officer would be responsible for tracking his or her participation in education and would be required to keep records for three years. Each judge would be required to give the presiding judge a copy of his or her record of education participation at the end of each year and to sign a statement of completion and give it to the presiding judge at the end of each three-year period.

Rule 6.413

Rule 6.413 would set forth the new minimum education requirements for trial court executive officers. Many of the provisions would be similar to those for judges in rule 6.412. There would be a content-based requirement for new executive officers, and the hours-based requirement would be to complete 30 hours of continuing education every three years. Each executive officer would have an individual three-year period that starts on January 1 after he or she completes the required new executive officer education. Provisions similar to those in rule 6.412 would specify the education that applies toward the 30 hours and the limits on some types of education. An executive officer may request from the presiding judge an extension of time to complete the requirements, and the presiding judge would have the authority to grant such a request for good cause. Provisions would be included on the responsibility of the court executive officer to track participation, to keep records, to give a copy of the record to the presiding judge at the end of each year, and to give a signed statement of completion to the presiding judge at the end of each three-year period.

Rule 6.414

Rule 6.414 would set forth the new minimum education requirements for trial court managers, supervisors, and personnel. Many of the provisions would be similar to those for judges and court executive officers. There would be content-based requirements for new managers, supervisors, and employees, and there would be hours-based continuing education requirements. The hours-based requirement for managers and supervisors would be 12 hours every two years, and that for court personnel would be 8 hours every two years.

All court managers, supervisors, and personnel would have the same cycle of two-year periods for continuing education. Each person would “enter” the in-progress period after completing the required orientation education. The continuing education requirements and limitations would be prorated based on when the individual enters the two-year period.

There are several Rules of Court (rules 5.35, 5.225, 5.230, 5.355, 1405.5) that require training and education for family law facilitators, child custody investigators and evaluators, child support court clerks, and juvenile dependency mediators. These requirements would not be

inconsistent with rule 6.414, and education taken to satisfy one of those specific requirements would also apply to the hours-based requirement in rule 6.414. The court employee may request an extension of time to complete the minimum education requirements from his or her supervisor or from the executive officer, and that individual would have the authority to grant such a request for good cause. Each court would be responsible for tracking participation in education and for tracking completion of minimum education requirements for its managers, supervisors, and other personnel. In addition, each individual would be required to keep records of his or her participation in education.

Rule 6.421

Rule 6.421(a) would set forth a list of approved education providers. Any education program offered by any provider on the list that is relevant to the work of the courts or the individual participant's job would apply toward (1) the continuing education requirements for judges, subordinate judicial officers, or court executive officers or (2) the orientation or continuing education requirements of court managers, supervisors, or personnel.

Subdivision (b) would set forth approved education criteria such that any education from a provider not included in the approved provider list in subdivision (a) that is approved as meeting the listed criteria by the presiding judge (for judges, subordinate judicial officers, and the court executive officer) or by the court executive officer or the employee's supervisor (for managers, supervisors, and court personnel) would also apply toward the education requirements.

Comments are invited on the proposed rules and on the attached *Guidelines for Implementation*. The guidelines would assist the courts in implementing the rules on minimum education requirements. They provide examples of completing the requirements, explanations of some education terminology, and some optional templates and forms that the courts might find useful in planning and tracking completion of the requirements.

The Judicial Council adopts rules 6.401–6.421 of the California Rules of Court and repeals rules 970 and 5.30, effective January 1, 2007, to read as follows:

~~Rule 970. Judicial education~~

~~(a) [Judicial education responsibility]~~ ~~Judicial education for all trial and appellate court judicial officers throughout their careers is essential to enhance the fair and efficient administration of justice. Judicial officers are entrusted by the public with the impartial and knowledgeable handling of proceedings that affect people's freedom, livelihood, and happiness. Participation in judicial education activities is an official judicial duty. To preserve the leadership and independence of the judicial branch, the responsibility for planning, conducting, and overseeing judicial education rests with the judiciary.~~

~~(b) [Judicial education objectives]~~ ~~Judicial officers, educational committees, approved providers, and others who plan educational programs shall endeavor to achieve the following objectives:~~

- ~~(1) Provide judicial officers with the knowledge, skills, and techniques required to competently perform their judicial responsibilities fairly and efficiently;~~
- ~~(2) Assist judicial officers in preserving the integrity and impartiality of the judicial system through the prevention of bias;~~
- ~~(3) Promote the judicial officers' adherence to the highest ideals of personal and official conduct as set forth in the Code of Judicial Ethics;~~
- ~~(4) Improve the administration of justice, reduce court delay, and promote fair and efficient management of trials;~~
- ~~(5) Promote standardized court practices and procedures; and~~
- ~~(6) Implement the Standards of Judicial Administration recommended by the Judicial Council.~~

~~(c) [Applicability]~~ ~~All California judicial officers shall comply with these judicial education requirements.~~

~~(d) [Definitions]~~ ~~As used in this rule, unless the context or subject matter otherwise requires, "judicial officers" means justices, judges, commissioners, and referees who are full time court employees not engaged in the practice of law.~~

~~(e) [Educational requirements for new judicial officers]~~

(1) ~~Each newly appointed or elected trial court judicial officer shall complete three weeks of new judge education provided by the Center for Judicial Education and Research (CJER) within the following time frames:~~

- ~~(i) A one week orientation program shall be completed within six months of taking the oath as a judicial officer. Elevated judges and commissioners and referees who become judges are excluded from this requirement if they have previously attended the one week program.~~
- ~~(ii) The two week Judicial College shall be completed within two years of taking the oath as a judicial officer.~~

(2) ~~Each new Court of Appeal justice shall attend a new appellate judge orientation program sponsored by a national provider of appellate orientation programs or by CJER within two years of confirmation of appointment.~~

~~(f) [Budget] Each presiding judge shall include as part of the court's budget request adequate funding to provide annual judicial education consistent with Standards of Judicial Administration section 25.~~

~~(g) [Educational leave] Each presiding judge shall grant sufficient educational leave to all new judicial officers to enable them to meet the requirements of subdivision (c). To the extent compatible with the efficient administration of justice, all presiding judges shall grant to all judicial officers sufficient leave to participate in educational programs consistent with Standards of Judicial Administration section 25.~~

~~Rule 970 adopted effective January 1, 1996.~~

~~Rule 5.30. Judicial education for family court judicial officers~~

~~Every judicial officer whose principal judicial assignment is to hear family law matters or who is the sole judge hearing family law matters must, if funds are available, attend the following judicial education programs:~~

- ~~(a) [Basic family law education] Within six months of beginning a family law assignment, or within one year of beginning a family law assignment in courts with five or fewer judges, the judicial officer must attend a basic educational program on California family law and procedure designed primarily for judicial officers. A judicial officer who has completed the basic educational program need not attend the basic educational program again. All other judicial officers who hear~~

1 family law matters, including retired judges who sit on court
2 assignment, must participate in appropriate family law educational
3 programs.
4

5 *(Subd (a) amended and relettered effective January 1, 2003; adopted as subd*
6 *(1) effective January 1, 1992.)*
7

8 **(b) [Continuing family law education]** The judicial officer must attend a
9 periodic update on new developments in California family law and
10 procedure.
11

12 *(Subd (b) amended and relettered effective January 1, 2003; adopted as subd*
13 *(2) effective January 1, 1992.)*
14

15 **(c) [Other family law education]** To the extent that judicial time and
16 resources are available, the judicial officer must attend additional
17 educational programs on other aspects of family law including
18 interdisciplinary subjects relating to the family.
19 *(Subd (c) amended and relettered effective January 1, 2003; adopted as subd*
20 *(3) effective January 1, 1992.)*
21

22 *Rule 5.30 amended and renumbered effective January 1, 2003; adopted as rule 1200*
23 *effective January 1, 1992.*
24
25

26 Title Six

27 Division II. Administration of the Judicial Branch

28 Chapter 5. Minimum Education Requirements

30 **Rule 6.401. Judicial branch education**

31
32 **(a) [Purpose]** Judicial branch education for all justices, judges, subordinate
33 judicial officers, and court personnel is essential to enhance the fair,
34 effective, and efficient administration of justice. Participation in
35 education activities is part of their official duties. Judicial branch
36 education is acknowledged as a vital component in achieving the goals
37 of the Judicial Council's Long-Range Strategic Plan, which include
38 access, fairness, and diversity; branch independence and accountability;
39 modernization of management and administration; and quality of justice
40 and service to the public. The responsibility for planning, conducting,
41 and overseeing judicial branch education properly resides in the judicial
42 branch.
43

1 **(b) [Education objectives]** Justices, judges, subordinate judicial officers,
2 court personnel, education committees, and others who plan and deliver
3 education will endeavor to achieve the following objectives:
4

5 (1) Providing justices, judges, subordinate judicial officers, and court
6 personnel with the knowledge, skills, and abilities required to
7 perform their responsibilities competently, fairly, and efficiently;
8

9 (2) Ensuring that education, including opportunities for orientation,
10 continuing education, and professional development, is available to
11 all justices, judges, subordinate judicial officers, and court
12 personnel;
13

14 (3) Assisting justices, judges, subordinate judicial officers, and court
15 personnel in preserving the integrity and impartiality of the judicial
16 system through their efforts to ensure that all members of the
17 public have equal access to the courts and equal ability to
18 participate in court proceedings and are treated in a fair and just
19 manner;
20

21 (4) Promoting the adherence of justices, judges, subordinate judicial
22 officers, and court personnel to the highest ideals of personal and
23 official conduct, as set forth in the California Code of Judicial
24 Ethics and the Code of Ethics for the Court Employees of
25 California;
26

27 (5) Improving the administration of justice, reducing court delay, and
28 promoting fair and efficient management of court proceedings;
29

30 (6) Promoting standardized court practices and procedures; and
31

32 (7) Implementing the recommendations adopted by the Judicial
33 Council in the California Standards of Judicial Administration.
34
35

36 **Rule 6.402. Minimum education requirements**
37

38 **(a) [Purpose]** Justices, judges, and subordinate judicial officers are
39 entrusted by the public with the impartial and knowledgeable handling
40 of proceedings that affect the freedom, livelihood, and happiness of the
41 people involved. Court personnel assist justices, judges, and subordinate
42 judicial officers in carrying out their responsibilities and must provide
43 accurate and timely services for the public. Each justice, judge, and

subordinate judicial officer and each court staff member is responsible for maintaining and improving his or her professional competence. To assist them in achieving professional competence, the judicial branch will develop and maintain a comprehensive and high-quality education program, including minimum education requirements, to provide educational opportunities for all justices, judges, subordinate judicial officers, and court personnel.

(b) [Goals] The minimum education requirements set forth in rules 6.411–6.414 are intended to achieve two complementary goals:

- (1) To ensure that both individuals who are new to the bench or the court and those who are experienced on the bench or court but are beginning a new assignment or role obtain education regarding the tasks, skills, abilities, and knowledge necessary to be successful in the new role; and
- (2) To establish broad parameters, based on time, for continuing education for individuals who are experienced both on the bench or court and in their assignments or roles, preserving the ability of the individual, working with the presiding judge or court executive officer, to determine the appropriate content and provider.

(c) [Relationship to education standards] The education requirements set forth in rules 6.411–6.414 are minimum requirements. Justices, judges, and subordinate judicial officers should participate in more judicial education than is required, in accordance with the judicial education standards set forth in sections 25.1–25.4 of the California Standards of Judicial Administration. Court executive officers and other court personnel should participate in more education than is required, in accordance with the education standards set forth in section 25.6 of the California Standards of Judicial Administration.

(d) [Responsibilities of administrative presiding justices] Each administrative presiding justice must grant sufficient educational leave to new Court of Appeal justices to enable them to complete the minimum education requirements stated in rule 6.411. To the extent compatible with the efficient administration of justice, each administrative presiding justice also must grant to all justices sufficient leave to participate in education programs consistent with section 25.1 of the California Standards of Judicial Administration. Each administrative presiding justice should establish an education plan for

1 his or her court to facilitate the participation of justices as both
2 participants and faculty in judicial education activities.

3
4 **(e) [Responsibilities of presiding judges and court executive officers]**

5
6 (1) Each presiding judge must grant sufficient educational leave to all
7 judges and subordinate judicial officers and to the court executive
8 officer to enable them to complete the minimum education
9 requirements stated in rules 6.412 and 6.413, respectively. To the
10 extent compatible with the efficient administration of justice, each
11 presiding judge also must grant to all judges and subordinate
12 judicial officers and to the court executive officer sufficient leave
13 to participate in education programs consistent with sections 25.1–
14 25.4 and 25.6 of the California Standards of Judicial
15 Administration. Each presiding judge should establish an
16 education plan for his or her court to facilitate the participation of
17 judges, subordinate judicial officers, and the executive officer as
18 both participants and faculty in education activities and should
19 consult with each judge, each subordinate judicial officer, and the
20 executive officer regarding their education needs and requirements
21 related to their current and future assignments. As provided in
22 rules 6.412(e) and 6.413(d), the presiding judge must consider
23 requests from judges, subordinate judicial officers, and the
24 executive officer for extensions of time to complete education
25 requirements. The presiding judge should also use his or her
26 assignment powers to enable all judges and subordinate judicial
27 officers, particularly those assigned to specific calendar courts, to
28 participate in educational activities.

29
30 (2) Each court’s executive officer, managers, and supervisors must
31 grant sufficient educational leave to all court personnel to enable
32 them to complete the minimum education requirements stated in
33 rule 6.414. To the extent compatible with the efficient
34 administration of justice, each court must also grant to all court
35 personnel sufficient leave to participate in education programs
36 consistent with section 25.6 of the California Standards of Judicial
37 Administration. Each court’s executive officer, managers, and
38 supervisors should establish an education plan for their court to
39 facilitate the participation of court personnel as both participants
40 and faculty in educational activities, and should work with each
41 court staff member regarding his or her education needs and
42 requirements and professional development. As provided in rule
43 6.414(d), the executive officer must consider requests from

1 managers, supervisors, and other court personnel (unless such
2 requests are delegated to the employee's supervisor) for extensions
3 of time to complete education requirements.
4
5

6 **Rule 6.411. New Court of Appeal justices**
7

8 Each new Court of Appeal justice, within two years of confirmation of
9 appointment, must attend a new appellate judge orientation program
10 sponsored by a national provider of appellate orientation programs or by the
11 Administrative Office of the Courts' Education Division/Center for Judicial
12 Education and Research.
13

14 **Advisory Committee Comments (2006)**

15 In consolidating and enhancing minimum education requirements for the judicial branch, former
16 rule 970 was repealed. Former rule 970(e)(2) set forth the educational requirements for new Court
17 of Appeal justices, which are carried forward without change in new rule 6.411.
18
19

20 **Rule 6.412. Trial court judges and subordinate judicial officers**
21

22 **(a) [Applicability]** All California trial court judges and subordinate
23 judicial officers must complete these minimum judicial education
24 requirements.
25

26 **(b) [Definitions]** Unless the context or subject matter otherwise requires,
27 "subordinate judicial officers" as used in this rule means subordinate
28 judicial officers as defined in rule 6.660.
29

30 **(c) [Content-based requirements]**
31

32 (1) New trial court judges and subordinate judicial officers must
33 complete the following education for new judges ("new judge
34 education") provided by the Administrative Office of the Courts'
35 Education Division/Center for Judicial Education and Research
36 (CJER). Each new judge or subordinate judicial officer must
37 complete:
38

39 (A) The New Judge Orientation program within six months of
40 taking the oath as a judge or subordinate judicial officer;
41

1 (B) The B. E. Witkin Judicial College of California within two
2 years of taking the oath as a judge or subordinate judicial
3 officer; and

4
5 (C) An orientation course in his or her primary assignment (civil,
6 criminal, family, juvenile delinquency or dependency,
7 probate, or traffic) within one year of taking the oath as a
8 judge or subordinate judicial officer.

9
10 (2) Each new supervising judge who has administrative responsibility
11 must complete CJER’s Supervising Judges Overview course
12 within one year of beginning the supervising judge role, and
13 preferably before beginning the role. Each new supervising judge
14 who has calendar management responsibility must complete a
15 calendar management overview course, provided either by the
16 local court or by CJER, within one year of beginning the
17 supervising judge role and preferably before beginning the role. A
18 new supervising judge with both administrative and calendar
19 management responsibility must complete both overview courses
20 within one year of beginning the role.

21
22 (3) Each new presiding judge must complete CJER’s Presiding Judges
23 Orientation and Court Management Program within one year of
24 beginning the presiding judge role and preferably before beginning
25 the role.

26
27 (4) Each judge or subordinate judicial officer who is beginning a new
28 primary assignment—unless he or she is returning to an
29 assignment after less than two years in another assignment—must
30 complete a course on the new primary assignment, provided by
31 CJER, the California Judges Association (CJA), or the local court,
32 within six months of beginning the new assignment. CJER is
33 responsible for identifying content for these courses and will share
34 the identified content with CJA and the local courts. A judge or
35 subordinate judicial officer who is returning to a previous primary
36 assignment after less than two years is not required to complete a
37 course on the new primary assignment.

38
39 (d) **[Hours-based requirement]** Each judge or subordinate judicial officer,
40 after completing the education for new judges (“new judge education”)
41 that is required under subdivision (c)(1), must complete 30 hours of
42 continuing judicial education every three years. For a new judge or new
43 subordinate judicial officer, the first three-year period begins on January

1 1 of the year following completion of the required new judge education.
2 For all other judges and subordinate judicial officers, the first three-year
3 period begins on January 1, 2007.
4

5 (1) The new judge education required under subdivision (c)(1) does
6 not apply toward the required 30 hours of continuing judicial
7 education because it must be completed before the individual's
8 first three-year period begins.
9

10 (2) The content-based courses required for a new supervising judge, a
11 new presiding judge, and a judge or subordinate judicial officer
12 beginning a new primary assignment, under subdivisions (c)(2),
13 (3), and (4), respectively, apply toward the required 30 hours of
14 continuing judicial education. Any other education offered by a
15 provider listed in rule 6.421(a) and any other education (including
16 education taken to satisfy a statutory or other education
17 requirement) approved by the presiding judge as meeting the
18 criteria listed in rule 6.421(b) also apply toward the required 30
19 hours of continuing judicial education.
20

21 (3) Generally, education applies toward the hours-based requirement
22 on an hour-for-hour basis. Each hour of participation in a
23 traditional (face-to-face) education course and each hour of
24 participation in distance education, such as broadcast and
25 videoconference courses, counts toward the requirement.
26 Participation in online coursework and self-directed study are
27 limited to a combined total of 7 hours in each three-year period.
28

29 (4) A judge or subordinate judicial officer who serves as faculty for a
30 California court-based audience (i.e., justices, judges, subordinate
31 judicial officers, temporary judges, or court personnel) may apply
32 the hours of faculty service as follows: 3 hours for each hour of
33 presentation the first time a given course is presented, and 2 hours
34 for each hour of presentation each subsequent time that course is
35 presented. The hours applied for faculty service are limited to 15 in
36 each three-year period.
37

38 (e) [Extension of time] A judge or subordinate judicial officer may request
39 from the presiding judge an extension of time to complete the content-
40 based requirements in subdivision (c)(2)–(4) or the hours-based
41 requirement in subdivision (d). A judge or subordinate judicial officer
42 may not request an extension of time to complete the content-based
43 requirements for new judges and subordinate judicial officers in

subdivision (c)(1). A time extension to complete the content-based requirements in subdivision (c)(2)–(4) is not to exceed the original time period provided—that is, one year, one year, or six months, respectively. A time extension to complete the hours-based requirement in subdivision (d) is limited to one year. The presiding judge has the authority to grant such a request for an extension of time for good cause. If the presiding judge grants a request for an extension of time, the judge or subordinate judicial officer, in consultation with the presiding judge, also must pursue interim means of obtaining relevant educational content. An extension of time to complete the hours-based requirement does not affect the timing of the individual’s next three-year period.

(f) [Records of participation; statement of completion] Each judge or subordinate judicial officer is responsible for tracking his or her own participation in education, including faculty service, and must keep a record of participation for three years after each course or activity that is applied toward the requirements. At the end of each year the judge or subordinate judicial officer must give the presiding judge a copy of his or her record of participation in education for that year. At the end of each three-year period, the judge or subordinate judicial officer also must sign a statement of completion for that three-year period and give it to the presiding judge.

Advisory Committee Comment (2006)

The minimum judicial education requirements in rule 6.412 do not apply to retired judges seeking to sit on regular court assignment in the Assigned Judges Program. Retired judges who seek to serve in the Assigned Judges Program must comply with the Chief Justice’s Standards and Guidelines for Judges Who Serve on Assignment, which includes education requirements.

Rule 6.413. Trial court executive officers

(a) [Applicability] All California trial court executive officers must complete these minimum education requirements.

(b) [Content-based requirement] Each new executive officer must complete the Presiding Judges Orientation and Court Management Program provided by the Administrative Office of the Courts’ Education Division/Center for Judicial Education and Research (CJER) within one year of becoming an executive officer and, if possible, should participate in additional education during the first year. An executive officer should, but is not required to, subsequently participate

1 in CJER’s Presiding Judges Orientation and Court Management
2 Program each time a new presiding judge from his or her court
3 participates in the course and each time the executive officer becomes
4 the executive officer in a different court.

5
6 **(c) [Hours-based requirement]** Each executive officer, after completing
7 the education required under subdivision (b), must complete 30 hours of
8 continuing education every three years. For a new executive officer, the
9 first three-year period begins on January 1 of the year following
10 completion of the required education for new executive officers (“new
11 executive officer education”). For all other executive officers, the first
12 three-year period begins on January 1, 2007.

13
14 (1) The new executive officer education required under subdivision (b)
15 does not apply toward the required 30 hours of continuing
16 education because it must be completed before the executive
17 officer’s first three-year period begins.

18
19 (2) Any other education offered by a provider listed in rule 6.421(a)
20 and any other education (including education taken to satisfy a
21 statutory or other education requirement) approved by the
22 presiding judge as meeting the criteria listed in rule 6.421(b) apply
23 toward the required 30 hours of continuing education.

24
25 (3) Generally, education applies toward the hours-based requirement
26 on an hour-for-hour basis. Each hour of participation in a
27 traditional (face-to-face) education course and each hour of
28 participation in distance education, such as broadcast and
29 videoconference courses, count toward the requirement.
30 Participation in online coursework and self-directed study are
31 limited to a combined total of 7 hours in each three-year period.

32
33 (4) An executive officer who serves as faculty for a California court-
34 based audience (i.e., justices, judges, subordinate judicial officers,
35 temporary judges, or court personnel) may apply the hours of
36 faculty service as follows: 3 hours for each hour of presentation the
37 first time a given course is presented, and 2 hours for each hour of
38 presentation each subsequent time that course is presented. The
39 hours applied for faculty service are limited to 15 in each three-
40 year period.

41
42 **(d) [Extension of time]** An executive officer may request from the
43 presiding judge an extension of time to complete the content-based

1 requirement in subdivision (b) or the hours-based requirement in
2 subdivision (c). A time extension to complete either requirement is
3 limited to one year. The presiding judge has the authority to grant such
4 a request for an extension of time for good cause. If the presiding judge
5 grants a request for an extension of time, the executive officer, in
6 consultation with the presiding judge, also must pursue interim means
7 of obtaining relevant educational content. An extension of time to
8 complete the hours-based requirement does not affect the timing of the
9 executive officer's next three-year period.

10
11 **(e) [Record of participation; statement of completion]** Each executive
12 officer is responsible for tracking his or her own participation in
13 education, including faculty service, and must keep a record of
14 participation for three years after each course or activity that is applied
15 toward the requirements. At the end of each year the executive officer
16 must give the presiding judge a copy of his or her record of participation
17 in education for that year. At the end of each three-year period, the
18 executive officer also must sign a statement of completion for that
19 three-year period and give it to the presiding judge.

20
21
22 **Rule 6.414. Trial court managers, supervisors, and personnel**

23
24 **(a) [Applicability]** All California trial court managers, supervisors, and
25 personnel must complete these minimum education requirements.

26
27 **(b) [Content-based requirements]**

28
29 (1) Each new manager or supervisor must complete a series of
30 orientation courses, including an orientation to the judicial branch
31 of California, an orientation to the local court, and an orientation to
32 basic management and supervision issues, within six months of
33 becoming a manager or supervisor. The court's executive officer
34 may determine that a new manager or supervisor has already
35 completed one or more of these orientation courses or has
36 completed courses covering equivalent content and is not required
37 to complete a certain course again.

38
39 (2) Each new court employee who is not a manager or supervisor must
40 complete an orientation course or courses—including an
41 orientation to the judicial branch of California, an orientation to the
42 local court, an orientation to basic employee issues (such as sexual
43 harassment and safety), and an orientation to the specific job—

1 within six months of becoming a court employee. The employee's
2 supervisor may determine that a new court employee has already
3 completed a part of this orientation course or has completed a
4 course covering some equivalent content and is not required to
5 complete a certain part of the course again.

6
7 **(c) [Hours-based requirements]**
8

- 9 (1) Each court manager or supervisor, after completing the education
10 required under subdivision (b)(1), must complete 12 hours of
11 continuing education every two years.
12
13 (2) Each new court employee who is not a manager of supervisor, after
14 completing the new employee education required under
15 subdivision (b)(2), must complete 8 hours of continuing education
16 every two years.
17
18 (3) The first two-year period for all court managers, supervisors, and
19 personnel begins on January 1, 2007. The orientation education
20 required for new managers, supervisors, and personnel under
21 subdivision (b) does not apply toward the required hours of
22 continuing education because it must be completed before they
23 enter the two-year period. Each new manager, supervisor, or
24 employee enters the two-year continuing education period on the
25 first day of the quarter following his or her completion of the
26 orientation education required under subdivision (b); the quarters
27 begin on January 1, April 1, July 1, and October 1. Each manager,
28 supervisor, or employee who enters the two-year continuing
29 education period after it has begun must complete a prorated
30 number of continuing education hours for that two-year period,
31 based on the number of quarters remaining in it.
32
33 (4) Any education offered by a provider listed in rule 6.421(a) and any
34 other education (including education taken to satisfy a statutory,
35 rules-based, or other education requirement) approved by the
36 executive officer or the employee's supervisor as meeting the
37 criteria listed in rule 6.421(b) apply toward the orientation
38 education required under subdivision (b) and the continuing
39 education required under subdivision (c)(1) and (2).
40
41 (5) Generally, education applies toward the hours-based requirement
42 on an hour-for-hour basis. Each hour of participation in a
43 traditional (face-to-face) education course and each hour of

1 participation in distance education, such as broadcast and
2 videoconference courses, count toward the requirement.
3 Participation in online coursework is limited to a total of 4 hours
4 for managers and supervisors and to a total of 3 hours for other
5 personnel in each two-year period; these limits are prorated for
6 individuals who enter the two-year period after it has begun. Self-
7 directed study is encouraged for professional development but
8 does not apply toward the required hours.
9

10 (6) A manager, supervisor, or employee who serves as faculty for a
11 California court-based audience (i.e., justices, judges, subordinate
12 judicial officers, temporary judges, or court personnel) may apply
13 the hours of faculty service as follows: 3 hours for each hour of
14 presentation the first time a given course is presented, and 2 hours
15 for each hour of presentation each subsequent time that course is
16 presented. The hours applied for faculty service are limited to 6
17 hours for managers and supervisors and to 4 hours for other
18 personnel in each two-year period; these limits are prorated for
19 individuals who enter the two-year period after it has begun.
20

21 (d) **[Extension of time]** A manager, supervisor, or employee may request
22 from his or her supervisor (if delegated by the court executive officer)
23 or from the court executive officer an extension of time to complete the
24 content-based requirements in subdivision (b) or the hours-based
25 requirement in subdivision (c). A time extension to complete either type
26 of requirement is limited to six months. The executive officer or the
27 supervisor, if delegated, has the authority to grant such a request for an
28 extension of time for good cause. If the executive officer or supervisor
29 grants a request for an extension of time, the manager, supervisor, or
30 employee who made the request, in consultation with the executive
31 officer or supervisor, also must pursue interim means of obtaining
32 relevant educational content. An extension of time does not affect the
33 timing of the next two-year period.
34

35 (e) **[Records of participation]** Each court is responsible for tracking
36 participation in education, including faculty service, and for tracking
37 completion of minimum education requirements for its managers,
38 supervisors, and other personnel. Each manager, supervisor, and
39 employee must keep records of his or her own participation for two
40 years after each course or activity that is applied toward the
41 requirements.
42
43

1 **Rule 6.421. Approved providers; approved course criteria**

2
3 **(a) [Approved providers]** Any education program offered by any of the
4 following providers that is relevant to the work of the courts or
5 enhances the individual participant's ability to perform his or her job
6 may be applied toward the education requirements stated in rule
7 6.412(d), 6.413(c), or 6.414(b)–(c):
8

- 9 (1) California Administrative Office of the Courts;
10 (2) California Judges Association;
11 (3) California Supreme Court;
12 (4) California Courts of Appeal;
13 (5) Superior Courts of California;
14 (6) State Bar of California;
15 (7) National Judicial College;
16 (8) National Center for State Courts;
17 (9) National Council for Juvenile and Family Court Judges;
18 (10) National Association of Women Judges;
19 (11) American Bar Association;
20 (12) National Association for Court Management;
21 (13) American Judges Association;
22 (14) American Academy of Judicial Education;
23 (15) Institute of Judicial Administration;
24 (16) National Institute of Justice;
25 (17) Law schools accredited by the American Bar Association;
26 (18) Local California bar associations; and
27 (19) California Court Association.
28

29 **(b) [Approved education criteria]** Any education from a provider not
30 listed in subdivision (a) that is approved by the presiding judge as
31 meeting the criteria listed below may be applied toward the continuing
32 education requirements for judges and subordinate judicial officers or
33 for court executive officers stated in rule 6.412(d) or 6.413(c),
34 respectively. Similarly, any education from a provider not listed in
35 subdivision (a) that is approved by the court executive officer or by the
36 employee's supervisor as meeting the criteria listed below may be
37 applied toward the orientation or continuing education requirements for
38 managers, supervisors, and employees in rule 6.414(b) and (c)(1), (2).
39

40 (1) The education must meet the following three criteria:
41

- 42 (A) The subject matter is relevant to the work of the courts or the
43 judicial branch;

1
2 (B) The education is at least one hour in length; and

3
4 (C) Anticipated learning outcomes (how new knowledge, skills,
5 or abilities will be applied, demonstrated, or used) are
6 identified prior to the education work.

7
8 (2) The education must also meet at least three of the following five
9 criteria:

10
11 (A) The learning environment is educationally sound (e.g.,
12 distractions are limited and the physical location is conducive
13 to learning the subject matter);

14
15 (B) The participant receives or has access to all the reference
16 tools and other materials and resources (such as handouts)
17 that are required for learning and applying the content (such
18 as job aids or scripts);

19
20 (C) The participant has an opportunity to practice using or
21 applying the new information or skill (through direct
22 experience, role play, or case studies/hypothetical situations)
23 as part of the learning experience;

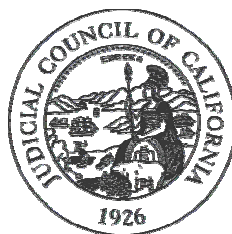
24
25 (D) The participant has the opportunity to interact with
26 knowledgeable faculty or other experts in the topical area to
27 pose questions or clarify understanding;

28
29 (E) An assessment tool or activity (such as the development of an
30 action plan to apply the newly gained knowledge or skill)
31 enables the participant to determine whether the skills,
32 abilities, or knowledge gained through the education can be
33 used in the future in his or her work.



Minimum Education Requirements for the California Judicial Branch

GUIDELINES FOR IMPLEMENTATION
A Supplement to Rules 6.401–6.421



JUDICIAL COUNCIL
OF CALIFORNIA

ADMINISTRATIVE OFFICE
OF THE COURTS

Minimum Education Requirements for the California Judicial Branch

Guidelines for Implementation A Supplement to Rules 6.401–6.421

These guidelines are offered as a resource to assist in implementation of rules 6.401–6.421 of the California Rules of Court—Minimum Education Requirements for the California Judicial Branch.

The intent of these guidelines is to provide examples, clarify terminology, and provide optional templates and forms that local courts may find helpful in implementing minimum education requirements.

For purposes of brevity, the acronym CJER will be used in this document to indicate the Administrative Office of the Courts' Education Division/Center for Judicial Education and Research.

Minimum Education Requirements for the California Judicial Branch Guidelines for Implementation

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Options and Resources for Implementing Minimum Education Requirements

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Flexibility

The rules regarding minimum education requirements are designed to provide considerable flexibility and control at the local court level. Content that must be obtained at the state level is limited to courses for new judges, new supervising judges, new presiding judges, and new executive officers. Continuing education for these groups of individuals may be obtained from a variety of sources.

Assistance with Establishing Local Court Education

In order to support education at the local court level, CJER, if requested by the presiding judge or executive officer, will provide assistance to local courts in establishing systems to support local education programs. This assistance includes facilitation of strategic planning for continuing education at the local level, faculty development opportunities for local court judges and court personnel, and access to curricula for all areas and groups that have been completed by CJER Education Committees.

Statewide and Regional Offerings

CJER will continue to offer courses at statewide institutes and conferences, will offer additional regional courses for judges and court personnel, and will offer broadcasts and online courses in a wide variety of content areas.

Numerous CJER Education Committees have developed curricula for their respective target audience; curricula include each substantive area of the law, access and fairness, management and supervision, and more. These curricula will be made available to local courts and the California Judges Association to provide assistance and resources to develop courses as they deem appropriate.

Networking/Sharing

Based on decisions by presiding judges and executive officers, each court has a local training coordinator who serves as a liaison between the court and CJER. Although the work of training coordinators is defined by the local court, these individuals receive advance notice of statewide educational opportunities, disseminate educational information locally, and make the educational needs of the local courts known at the state level. In addition, training coordinators network with each other and share resources independent of any statewide offerings. Many oversee local court education programs.

In addition to the work of the training coordinators, local courts can coordinate with courts in neighboring counties regarding educational offerings, seeking grants for educational purposes, and sharing expenses to make education from state and national providers available locally to their judges and court personnel.

Summary of Minimum Education Requirements

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Summary of Minimum Education Requirements

Minimum Education Requirements for Judges, Commissioners, Referees

A. New Judges (content-based)

- New Judge Orientation
- Judicial College
- Primary Assignment Orientation

Provider: CJER

B. Experienced Judges (30 hours in a three-year period)

Provider: Multiple providers

B. Experienced Judges Rotating Assignment (content-based)

- Overview or Refresher Course in New Assignment (if out of that assignment 2 years or more)

Provider: Local court, CJER, or CJA

[Hours may be applied toward the 30 hours in a three-year period]

C. New Supervising Judges (content-based)

- Supervising Judges Overview

Provider: CJER

- Calendar Management Overview

Provider: Local Court or CJER

[Hours may be applied toward the 30 hours in a three-year period]

D. New Presiding Judges (content-based)

- Presiding Judges Orientation and Court Management Program

Provider: CJER

[Hours may be applied toward the 30 hours in a three-year period]

Summary of Minimum Education Requirements

Minimum Education Requirements for Court Executive Officers

F. New Court Executive Officers (content-based)

- Presiding Judges Orientation and Court Management Program

Provider: CJER

G. Experienced Court Executive Officers (30 hours in a three-year period)

Provider: Multiple providers

Minimum Education Requirements for Court Managers and Supervisors

H. New Court Managers and Supervisors (content-based)

- Orientation to the Judicial Branch (if new to the judicial branch)

Provider: Local Court or CJER

- Orientation to the Local Court (if new to the court)

Provider: Local Court

- Orientation to Management/Supervision (if new to management/supervision)

Provider: Local Court or CJER or other provider

I. Experienced Managers and Supervisors (12 hours in a two-year period)

Provider: Multiple providers

Minimum Education Requirements for Court Personnel

J. New Court Personnel (content-based)

- Orientation to the Judicial Branch

Provider: Local Court or CJER

- Orientation to Basic Employee Issues (Sexual Harassment, Safety, etc.)

Provider: Local Court or CJER

- Orientation to the Local Court and the Specific Job

Provider: Local Court

K. Experienced Court Personnel (8 hours in a two-year period)

Provider: Multiple providers

Definitions, Explanations, and Examples

The following definitions and explanations are offered to clarify some terms used in rules 6.401–6.421, Minimum Education Requirements for the California Judicial Branch. They do not address all potential applications or variations of these terms.

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Approved Providers

The approved provider list in rule 6.421(a) is illustrative and is not intended to limit or exclude credit for educational opportunities offered by other providers. The state and national providers on the list are considered to be consistent, high-quality judicial branch education providers, most of which have education as a key part of their missions. The local providers listed, such as local courts and local bar associations, are considered to be high-quality providers of judicial branch education, although education is not necessarily a key part of their missions. Any education provider may sponsor other activities or events, such as business meetings, that are not educational and for which no educational credit should be granted. A list of criteria is provided in rule 6.421(b) for presiding judges and court executive officers to use in granting credit for education courses offered by providers not on the list.

Content-Based Requirements

The minimum education requirements for individuals **new to the court** and/or **new to their positions** are based on acquiring certain content that addresses the skills, abilities, and knowledge necessary to effectively perform a given job. A new judge, subordinate judicial officer, executive officer, manager, supervisor, or court employee must complete content-based requirements before entering a period of hours-based continuing education. For an individual new to a court or new to a position, time spent satisfying content-based requirements does not apply toward the hours-based continuing education requirement. For an **experienced** judge or subordinate judicial officer who is changing assignments or assuming administrative responsibilities as a supervising judge or presiding judge, time spent satisfying content-based requirements does apply toward the hours-based continuing education requirements.

Distance Education

In distance education, faculty and participant are separated by time and/or geography. The most familiar forms of distance education are broadcast and online courses. A broadcast separates faculty from participants by geography; the faculty is in the broadcast studio and the participants are in the courts around the state. A static online course separates faculty from participants through time; the faculty creates the course long before participants can access it. A few online courses involve faculty with participants in “real-time” discussions, but still faculty and participants are separated by geography.

Education Plan for the Local Court

To ensure continued administration of justice and to enable ongoing professional development for judges, subordinate judicial officers, executive officers, managers, supervisors, and court personnel, each court should develop a plan for education-related absences. As stated in rule 6.401, judges, subordinate judicial officers, and court personnel must consider participation in education activities to be part of their official duties. Thus, courts must provide opportunities for them to engage in those activities.

Extension of Time

Judges, subordinate judicial officers, and executive officers may request of presiding judges an extension of time to complete some of the content-based minimum education requirements or to complete the hours-based requirement. Managers, supervisors, and court personnel may make the same request of executive officers (or their designees). When applicable, an extension of time for content-based requirements is not to exceed the original time period. For example, if an experienced judge with a new assignment cannot complete the required overview/refresher course for the assignment within the required six months, the presiding judge may grant an extension of six months, for good cause. If a new court manager cannot complete the required orientation courses within the required six months, the court executive officer may grant an extension of six months, for good cause. (See Good Cause, below.)

Faculty Service Credit

Judges, subordinate judicial officers, executive officers, managers, supervisors, and court personnel may apply time spent in faculty service for California court-based audiences toward their hours-based continuing education as follows: 3 hours of education credit for each hour taught for a new course and 2 hours of education credit for each hour taught for a course being repeated. “California court-based audiences” include California justices, judges, subordinate judicial officers, temporary judges, and court personnel. The total number of hours that can be applied for faculty service is limited to half the number of education hours required for that individual in the education period. Judges have a 30-hour requirement in a three-year period; no more than 15 hours can be applied from faculty service during that time period. Court personnel have an 8-hour requirement in a two-year period; no more than four hours can be applied from faculty service. The reason for the limitation is to ensure that judges and court employees who teach also earn some of their hours-based continuing education as participants.

For example, if a judge teaches a new three-day course, 6 hours per day for three days, the total faculty credit is 54 hours (6 hours per day x 3 days = 18 hours of teaching; 18 hours of teaching x 3 hours of faculty credit for each hour taught = 54); however, in any three-year period only 15 of those faculty credit hours may be applied to the hours-based continuing education credit.

Good Cause for Granting Extensions of Time

Judges, subordinate judicial officers, and executive officers may request of presiding judges an extension of time to complete some of the content-based minimum education requirements or to complete the hours-based minimum education requirements. Managers, supervisors, and court personnel may make the same request of executive officers. A request for an extension of time may be granted for good cause. One example of good cause for an extension of time would be a severe shortage of judges or court personnel that prevented an individual from obtaining the required content-based education within the required time frame.

Hours-Based Requirements

The minimum education requirements for individuals who are experienced in their roles is based on time. The requirement for judges, subordinate judicial officers, and court executive officers is 30 hours in a three-year period. The requirement for managers and supervisors is 12 hours in a two-year period. The requirement for court personnel is 8 hours in a two-year period. The flexibility of this continuing education requirement enables local discretion in determining the content needed by an individual. Experienced judges, subordinate judicial officers, court executive officers, managers, supervisors, and court personnel may have some specific content requirements based on their roles; the time spent in these courses may be applied to the hours-based continuing education requirement.

Orientation

Orientation is defined as coursework for individuals new to the courts and/or new to their roles that introduces unfamiliar content deemed necessary for the effective performance of their work. Orientation for new judges and subordinate judicial officers includes judicial demeanor and access and fairness in the courts; orientation for new presiding judges includes laws, rules, and responsibilities in dealing with administrative issues; orientation for new court personnel includes an overview of the judicial system and the work of the courts.

Self-Directed Study/Learning

Self-directed study/learning is a process through which individuals diagnose their learning needs, formulate learning goals, identify resources for learning, select and implement learning strategies, and evaluate learning outcomes, with or without the help of others. In more traditional education settings, learning goals and methods are determined by faculty. In self-directed learning, this control is in the hands of the individual. Only judges and executive officers can receive credit for self-directed study/learning. (See D, Self-Directed Study/Learning: Designing the Experience, for details.)

Self-Paced Learning

Self-paced learning is a form of distance education (separation of faculty and participants by geography and/or time) in which participants move through content at their own pace. Online courses are the best example of self-paced learning; each participant sets the speed at which he or she advances in the course; thus, some individuals may complete a course sooner than others. A broadcast, while a form of distance education, is not self-paced, since all participants are provided content at the same time and at the same rate.

Sound Educational Environment

A sound educational environment is a surrounding that supports the specific learning, is comfortable for participants, and is free of non-content-related interruptions. For example, a crowded hallway might be a sound educational environment for orienting new court personnel to the court or teaching them about effectively dealing with the public or about safety issues, but it would not be a sound educational environment for teaching new court personnel about case processing. A large hotel ballroom set theater style

(chairs in rows – no tables) might be a sound educational environment for an hour-long panel presentation with questions and answers from judges attending, but it would not be a sound educational environment for a three-hour course on calculating child support in which judges participating would need to access documents, complete forms, and review and resolve case studies in small groups.

Recommendations for Effective Practice

Individual Learning Plan Templates

The use of these templates is optional. They are Word documents and will be accessible online. They can be modified to meet the needs of the local court or the individual. These templates can assist in planning how to obtain needed education and can also serve as a reporting tool. Or they may simply provide ideas for developing learning plans that meet the needs of the local court.

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Learning Plan for New Judges and Subordinate Judicial Officers

For use by the new judge or subordinate judicial officer for initial content and through the initial three-year period.

New Judge's Name: _____

Presiding Judge: _____

Date of Oath of Office: _____

Content-Based Requirements

No time is assigned to content-based requirements for new judges or subordinate judicial officers, and time spent in these content-based courses does not apply to the hours-based requirement.

Requirement	Due Date	Provider	Scheduled Date	Completion Date
New Judges Orientation program	Within 6 months of taking office	CJER		
Sexual Harassment Prevention – AB 1825	Within 6 months of taking office	Two-hour requirement—multiple providers, including local court		
Overview course in primary assignment	Within 12 months of taking office	CJER		
B.E. Witkin Judicial College*	Within 24 months of taking office	CJER		

* The judicial college includes content that satisfies the requirement for the current three-year Qualifying Ethics cycle.

Hours-Based Requirement

The hours-based requirement for judges and subordinate judicial officers is 30 hours in a three-year period.

The three-year period begins January 1 of the year following completion of the content-based requirements for new judges and subordinate judicial officers.

Initial Three-Year Period: 1/1/___ through 12/31/___

Content Areas	Course and Provider	Course Credit Hours	Scheduled Date	Completion Date
Sexual Harassment Prevention—AB 1825	Required every two years—multiple providers	2 hours required		
Qualifying Ethics	Required every three years if participating in the Commission on Judicial Performance Insurance Program/CJER			

New Judge's Signature _____

Date _____

Learning Plan for Judges and Subordinate Judicial Officers

Judge's Name: _____

Current Three-Year Period: 1/1/___ through 12/31/___

Content-Based Requirements

For experienced judges and subordinate judicial officers, content-based requirements are only for new roles and/or new assignments; any hours earned may be applied to the hours-based requirement of 30 hours in a three-year period.

Requirement	Due Date	Provider	Course Credit Hours	Scheduled Date	Completion Date
Presiding Judges Orientation and Court Management Program	Within 12 months of taking office	CJER			
New Supervising Judges Overview course	Within 12 months of taking position	CJER			
New Supervising Judges Calendar Management Overview	Within 12 months of taking position	CJER or the local court			
Overview or refresher course in new primary assignment (content based on CJER's curriculum)	Within 6 months of taking new assignment	CJER, the local court, or CJA			

Hours-Based Requirement

The hours-based requirement for judges and subordinate judicial officers is 30 hours in a three-year period. Time spent in any of the content-based courses listed above may be applied toward compliance with the hours-based requirement.

Content Areas	Course and Provider (include faculty service and hours applicable to requirement)	Course Credit Hours	Scheduled Date	Completion Date
Sexual Harassment Prevention—AB 1825	Required every two years—multiple providers	2 hours required		
Qualifying Ethics	Required every three years if participating in the Commission on Judicial Performance Insurance Program/CJER			

Judge's Signature _____

Date _____

Learning Plan for Court Executive Officers

Executive Officer's Name: _____

Presiding Judge: _____

Date of Hire/Promotion: _____

Content-Based Requirements

No time is assigned to content-based requirements for new Executive Officers and time spent in the required content-based course does not apply to the hours-based requirement.

Requirement	Due Date	Provider	Scheduled Date	Completion Date
Presiding Judges Orientation and Court Management Program	Within 12 months of hire/promotion	CJER		
Sexual Harassment Prevention—AB 1825	Within 6 months of hire/promotion	Two-hour requirement—multiple providers, including local court		

Hours-Based Requirement

The hours-based requirement for Executive Officers is 30 hours in a three-year period. The three-year period begins January 1 of the year following completion of the content-based requirements. Experienced Executive Officers are encouraged to attend the Presiding Judges Orientation and Court Management Program when a new presiding judge attends; hours for repeat attendance at this course can be applied toward the hours-based education requirement.

Current Three-Year Period: 1/1/___ through 12/31/___

Content Areas	Course and Provider (include faculty service and hours applicable to requirement)	Course Credit Hours	Scheduled Date	Completion Date
Sexual Harassment Prevention—AB 1825	Required every two years—multiple providers	2 hours required		

Executive Officer's Signature _____

Date _____

Presiding Judge's Signature _____

Date _____

Learning Plan for New Supervisors and Managers

Sup/Mgr Name:

Sup/Mgr Area of Responsibility:

Manager/Exec Officer:

Full-time ☐ Part-time ☐

Sup/Mgr Date of Hire/Promotion:

Current Designated Two-Year Period: 1/1/___–12/31/___

Content-Based Requirements

No time is assigned to content-based requirements and time spent in these courses does not apply to the hours-based requirement. Based on formal education or experience, the Court Executive Officer (or designee) may determine that a manager/supervisor is not in need of some components of the required content.

Requirement	Due Date	Provider	Scheduled Date	Completion Date
Orientation to the judicial branch	Within 6 months of hire	CJER or local court		
Orientation to the local court	Within 6 months of hire	Local court		
Orientation to basic management or supervision issues*	Within 6 months of hire	Multiple providers, including the local court and CJER		

* Including 2 hours of Sexual Harassment Prevention—AB 1825; safety; performance management; and ethics.

Hours-Based Requirement

The hours-based requirement for managers and supervisors is 12 hours in a designated two-year period. For new managers and supervisors, the hours-based requirement is initiated on the first day of the quarter (the quarters begin in January, April, July, and October) following completion of the content-based requirements. Required hours are prorated at 1.5 hours for each quarter remaining in the designated period (e.g., if five quarters remain, 7.5 hours are required).

Hours required for quarters remaining in designated period: _____

Content Areas	Course and Provider	Course Credit Hours	Scheduled Date	Completion Date

Supervisor/Manager's Signature _____ Date _____

Manager/Exec. Officer's Signature _____ Date _____

Learning Plan for Supervisors and Managers

Sup/Mgr Name:

Sup/Mgr Area of Responsibility:

Manager/Exec Officer:

Full-time ☐ Part-time ☐

Sup/Mgr Date of Hire/Promotion:

Current Designated Two-Year Period: 1/1/___–12/31/___

Content-Based Requirement

The content-based requirement for managers and supervisors is based on statute. Time spent in this course may be applied toward the hours-based requirement.

Requirement	Due Date	Provider	Scheduled Date	Completion Date
Sexual Harassment Prevention—AB 1825	Every two years	Two-hour requirement—multiple providers, including local court		

Hours-Based Requirement

The hours-based requirement for managers and supervisors is 12 hours in each designated two-year period.

Content Areas	Course and Provider (include faculty service and hours applicable to requirement)	Course Credit Hours	Scheduled Date	Completion Date

Supervisor/Manager's Signature _____ Date _____

Manager/Exec. Officer's Signature _____ Date _____

Learning Plan for New Court Personnel

Employee's Name: _____

Employee's Role: _____

Manager/Supervisor: _____

Full-time ☐ Part-time ☐

Employee's Date of Hire: _____

Current Designated Two-Year Period: 1/1/___–12/31/___

Content-Based Requirements

No time is assigned to content-based requirements and time spent in these courses does not apply to the hours-based requirement.

Requirement	Due Date	Provider	Scheduled Date	Completion Date
Orientation to the judicial branch	Within 6 months of hire	CJER or local court		
Orientation to the local court	Within 6 months of hire	Local court		
Orientation to the job	Within 6 months of hire	Local court		
Orientation to basic employee issues	Within 6 months of hire	Multiple providers, including local court		

* Including sexual harassment prevention; safety; ethics; and customer service.

Hours-Based Requirement

The hours-based requirement for court personnel is 8 hours in each designated two-year period. For new employees, the hours-based requirement is initiated on the first day of the quarter (January, April, July, October) following completion of the content-based requirements. Required hours are pro-rated at 1 hour for each quarter remaining in the designated period (e.g., if five quarters remain, 5 hours are required).

Hours required for quarters remaining in designated cycle: _____

Content Areas	Course and Provider	Course Credit Hours	Scheduled Date	Completion Date

Employee's Signature _____ Date _____

Supervisor's Signature _____ Date _____

Learning Plan for Court Personnel

Employee's Name: _____

Employee's Role: _____

Manager/Supervisor: _____

Full-time ☐ Part-time ☐

Employee's Date of Hire: _____

Current Designated Two-Year Period: 1/1/____–12/31/____

Hours-Based Requirement

*The hours-based requirement for court personnel is
8 hours in each designated two-year period.*

Content Areas	Course and Provider (include faculty service and hours applicable to requirement)	Course Credit Hours	Scheduled Date	Completion Date

Employee's Signature _____ Date _____

Supervisor's Signature _____ Date _____

Self-Directed Study/Learning: Designing the Experience

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Self-Directed Study/Learning: Designing the Experience

Overview

This type of learning experience is available for credit toward the hours-based minimum education requirements for judicial officers and executive officers only. Self-directed study/learning must be relevant to the work of the courts or the judicial branch.

Self-directed study/learning is a process through which individuals diagnose their learning needs, formulate learning goals, identify resources for learning, select and implement learning strategies, and evaluate learning outcomes, with or without the help of others. In more traditional education settings, learning goals and methods are determined by faculty. In self-directed learning, this control is in the hands of the individual.

Illustrative examples include:

- **Expanding knowledge of a specific topic.** Learning activities might include research; reading; visiting other courts, or courts in other states, or other organizations; and writing an article for publication based on the new knowledge.
- **Analyzing a specific procedure that could be implemented in the local court.** Learning activities might include interviews with subject matter experts, researching resources needed to implement the new procedure, discussing with others the viability of implementation, designing a local court version of the procedure, and teaching a course based on new knowledge.

The following process and template for planning are optional. These tools can assist in planning a self-directed study/learning experience and can also serve as documentation of the experience.

Process

- ☐ Create a brief outline of the anticipated learning experience, including goals, possible learning activities (research, interviews, and so on), resources, and the final product (such as an article, or a course, a new procedure). A template is provided.
- ☐ Implement the self-directed study/learning experience.
- ☐ Create the final product.
- ☐ Assign hours of credit. *Credit for online coursework and self-directed study/learning are limited to a combined total of 7 hours in the three-year period.*

Template: Self-Directed Study/Learning

Name: _____ Date: _____

What is your initial idea or reason for undertaking self-directed study/learning:

Before implementing the self-directed study/learning experience, answer these questions to help you formulate a plan:

1. What do you hope to learn or gain from the planned educational experience?
2. What do you hope to create or produce as a result of the learning? [An article for publication, a course, a new procedure, etc.]
3. What learning strategies can you employ? [Research, interviews, visitation, etc.]
4. What resources are available? [People, books, organizations, Web sites, etc.]

After completing the self-directed study/learning, answer these questions to help you evaluate the experience:

1. What did you learn or gain from the experience?
2. How well did your original plan work when you put it into practice?
3. What can or did you produce as a result of the experience?
4. How many hours of credit can be applied toward the hours-based minimum education requirements? (*Credit for online coursework and self-directed study/learning are limited to a combined total of 7 hours in the three-year period.*)

Frequently Asked Questions

Questions and answers are organized by topic/subject.

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Authority

What authority does the Judicial Council have to impose minimum education requirements?

The Judicial Council has the authority to require education for judges under Article VI, section 6(d) of the California Constitution, which addresses the council's authority and provides in part that to improve the administration of justice, the council has the authority to adopt rules for court administration, practice and procedure that are not inconsistent with statute.

Content

Who determines the content for continuing education?

The content for education for new judges, new supervising judges, and new presiding judges is determined by CJER Governing Committee education committees comprised of experienced judges with expertise in those areas.

The content of education for new executive officers is determined by a CJER Governing Committee education committee comprised of experienced executive officers and presiding judges.

The content for new managers/supervisors and new court personnel is recommended by CJER Governing Committee education committees comprised of experienced individuals in those roles, but how that content is actually developed is left to the discretion of the local court.

Once initial education requirements are met and an individual is in a cycle of continuing education, choice of content is at the discretion of the individual judge or executive officer in consultation with the presiding judge, the manager/supervisor in consultation with the executive officer, or the individual court employee in consultation with his/her manager or supervisor. The only exception is experienced judges who are changing their primary assignment and have either never had the assignment or have not had the assignment for two years or more. The content for courses in each area of assignment is determined by CJER Governing Committee education committees comprised of experienced judges in each substantive area of the law. (While CJER will offer courses based on this content, the content will also be shared with local courts and the California Judges Association, each of which may provide the education.)

Coverage

How will coverage be handled for judges attending education programs if there is an increase in educational requirements?

The flexibility of how to complete the minimum education requirements is intended to minimize time away from the court and the expense of travel, through distance education (broadcast and online), local court courses, and courses offered by other local providers, as well as self-directed learning opportunities. If/when coverage is needed, current options for the local court include temporary reassignment of cases within the court, use of temporary judges, and use of assigned

judges. (Staff to the Assigned Judges Program of the AOC will continually review with presiding judges the needs of each court and, when appropriate, initiate efforts to meet any increased needs.)

Are court personnel on court time when participating in courses? Will distance education be during normal work hours?

The expectation is that courts will allow court personnel work time to comply with minimum education requirements.

Credit

Who determines whether a course qualifies for credit?

Courses offered by approved providers listed in the rules automatically qualify for credit. The list of approved providers is illustrative; no published list can include all continuing education providers.

Presiding judges and court executive officers, or those they designate, can approve courses from providers that are not on this list based on approved education criteria included in the rules.

What are the approved education criteria?

Must meet the following three criteria:

- (1) Subject matter/topic is relevant to the work of the courts or the branch;
- (2) Education is at least one hour in length;
- (3) Anticipated learning outcomes (how new knowledge, skills or abilities will be applied or demonstrated/used) are identified prior to the educational work

Must also meet at least three of the following five criteria:

- (4) Learning environment is educationally sound (such as limited distractions, physical location is conducive to learning the subject matter);
- (5) Participant receives or has access to all reference tools and other materials/resources (such as handouts) required for learning and for application of newly acquired content (such as job aids or scripts);
- (6) Participant has an opportunity to practice using/applying new information or skill (through direct experience, role play or case studies/hypothetical situations) as part of the learning experience;
- (7) Participant has the opportunity to interact with knowledgeable faculty or other experts in the topical area to pose questions or clarify understanding;
- (8) An assessment tool or activity (such as the development of an action plan to apply newly gained knowledge/skill) enables the participant to determine if the skills/abilities and/or knowledge can be used in the future in their work.

In the criteria for granting credit, what is meant by “content relevant to the work of the court”? Does the content have to be related to the current work?

Content relevant to the work of the court includes content that either: (a) helps an individual perform his/her current work more effectively and/or efficiently; or (b) prepares him/her for a different role or assignment in the court system.

How is credit measured?

Continuing education credit is measured as 60 minutes of education equals one hour of credit. For traditional education settings (seminars, conferences, workshops) and for broadcasts credit is granted hour for hour. For online courses and for self-study courses, credit is granted hour for hour, but is limited: Judges and court executive officers are limited to a combined total of 7 hours in a three-year period. For managers and supervisors, the limit for online courses is 4 hours in a two-year period; for court personnel, the limit for online courses is 3 hours in a two-year period. Self-study courses are encouraged for professional development for managers, supervisors, and personnel but do not apply toward the required hours.

What kind of credit is granted for faculty service?

Credit for serving as faculty is:

- a) Limited to service for a California court-based audience (“California court-based audience” means justices, judges, subordinate judicial officers, temporary judges, and court personnel, and would include but not be limited to teaching for the AOC, the California Judges Association, or the local court.)
- b) Granted three hours for each hour of presentation for the first time a course is presented, and two hours for each hour of presentation for repeating the same course.
- c) Limited to no more than half of the required continuing education hours in a period (e.g., limit of 15 hours in a three-year period for judges and court executive officers, 6 hours in a two-year period for managers and supervisors, and 4 hours in a two-year period for court personnel).

What about credit for other kinds of learning (non-course education)?

Continuing education requirements are not intended to address every situation in which an individual learns something, but instead address situations which are designed to be educational, such as education courses. The rules regarding minimum education requirements include a list of approved providers; any courses offered by these providers are considered approved for credit. The rules also include a list of criteria that can be used to determine whether education credit should be granted for courses offered by providers not on the list. (See approved education criteria under the topic of Credit, page 22.) The criteria may also be used to assist in determining whether credit may be granted for non-course learning situations.

For example, the Administrative Office of the Courts is an approved provider, so any courses offered by AOC divisions would be approved for credit. But the AOC sponsors many other activities that are not courses, such as issues meetings, advisory committee meetings, regional meetings, and more. Generally these meetings would not qualify for credit because they are not

courses. However, if an AOC-sponsored meeting or portion of a meeting met the approved education criteria, that meeting or portion of that meeting could be given continuing education credit, determined by the provider, even though the event was not designated as a course.

Specific questions have been asked about the following types of non-course activities, which may be approved for credit if they meet the criteria:

- **Regional meetings for presiding judges and court executive officers**
If a particular regional meeting or portion of a regional meeting sponsored by the AOC satisfies the criteria, credit may be determined by the regional office and announced to participants.
- **Publishing legal articles by judges**
If publishing a legal article is the product of a self-directed learning activity and meets the criteria, credit may be obtained through the presiding judge within the established limits, not to exceed seven hours (the seven hours is a combined total of self-directed learning and online coursework) in a three-year period.
- **Briefing cases from advance sheets/creating memos to fellow judges regarding current legal issues**
This activity is considered part of a judge's normal work, not continuing education. However, if briefing cases from advance sheets or creating memos for fellow judges regarding current legal issues is part of a self-directed learning activity, and meets the criteria, credit may be obtained through the presiding judge within the established limits, not to exceed seven hours (the seven hours is a combined total of self-directed learning and online coursework) in a three-year period.
- **Serving on Judicial Council Advisory Committees**
If a particular advisory committee meeting or portion of a meeting sponsored by the AOC satisfies the criteria, credit may be determined by the committee chair and AOC staff and announced to participants.
- **Presiding Judge/Court Executive Officer Issues Meetings**
If a particular issues meeting or portion of an issues meeting sponsored by the AOC satisfies the criteria, credit may be determined by the chairs of the Trial Court Presiding Judge Advisory Committee and the Court Executive Officers Advisory Committee, and AOC staff, and announced to participants.
- **Local Court Executive Committee Meeting**
If a particular meeting or portion of a meeting sponsored by a local court satisfies the criteria, credit may be determined by the presiding judge and announced to participants.

If there are to be minimum education requirements for judges, why not simply extend Mandatory Continuing Legal Education (MCLE) to judicial positions?

Based on data provided by the National Center for State Courts, Court Statistics Project, as of September of 2005, in some states judges comply with MCLE. Minimum education requirements in California are designed to acknowledge the unique nature of serving as a judge, the long and well-supported tradition of judges-teaching-judges, and the benefit of judge-based participation in courses that deal with sensitive judicial issues.

If a position already has education requirements (e.g., attorneys with MCLE or family court facilitators, evaluators, and investigators who have educational requirements), would the minimum continuing education requirements be in addition?

Participation in courses required by statute or other rule applying to specific positions may be applied toward meeting the minimum education requirements so long as courses comply with Rule 6.421--the courses are offered by approved providers or, if offered by other providers, meet the approved education criteria.

Can credit be earned for education that is not coursework (e.g. one-to-one cross-training for court personnel in the court)?

If the training meets the criteria for granting credit, and if the Court Executive Officer approves, one-to-one training may be credited.

Impact

What will be the impact of implementing minimum education requirements?

The 2004 survey of the branch revealed that, of the 324 judicial respondents, judges were obtaining an average of approximately 26 hours of education every year. The minimum education requirement proposes only 30 hours in three years (if taken on the average, 10 hours per year) considerably less than the survey results indicated.

In addition, an analysis of participation in CJER courses (just one of many providers) showed that the current number of hours of judges' participation equals enough for every judge in California to be able to earn 45 hours in a three-year cycle.

How can travel be minimized and time away from court be managed if there is an increase in educational requirements?

An experienced judge, court executive officer, or court employee may earn all required credits through a combination of broadcasts, online courses, local courses, (and for judges and court executive officers - self-directed learning), all of which would minimize the expense and time away from court.

Will the court be responsible for costs associated with minimum education requirements for court personnel?

The expectation is that the courts will allow court personnel the necessary work time to participate in education. If the Court Executive Officer, or his/her designee(s) (e.g. managers/supervisors), approve a course, an event, and/or specific content for an individual, the expectation is that the court would pay any associated travel/registration costs. For hourly employees, the court would also need to pay the employee for any time spent participating in the required education and, if necessary, time for travel to and from an off-site location. If this qualified the employee for overtime pay, compensation would have to be at the appropriate overtime rate for that individual. However, an individual can earn all required education credits with very limited cost through local court courses, approved courses offered by other local providers, broadcasts and online courses. The cost to the court would primarily be the time needed for personnel to participate.

What are the anticipated costs of implementing minimum education requirements?

Costs associated with minimum education requirements are addressed in two ways: the cost at the state level and the cost at the local court level. In each, costs are estimated in two ways: the cost for judicial education and the cost for court personnel education.

State Level:

Judges: At the state level, the cost for delivering enough content to meet the minimum education requirements for judges will be minimal. CJER staff analyzed the amount of education delivered and attended by judges in 2003 and determined that attendance equaled enough contact hours for every judge in California to earn 15 hours annually. The minimum education requirement rule calls for 30 hours in three years, which equates to 10 hours per year. The content of education offered at the state level will change, but the amount of education delivered need not. In addition, an ever-increasing amount of educational content is being delivered through broadcast and online courses, increased direct costs for which are minimal. And CJER is only one provider; other providers include associations (such as the California Judges Association), local courts, and others. CJER will share its curriculum work with local courts and associations and will offer train-the-trainer packages for many areas of content.

Managers and Supervisors: At the state level, the cost for delivering enough content to meet the minimum education requirements for court managers, supervisors, and court personnel will increase. The current estimated increase in expense ranges from \$50,000 to \$100,000, depending on several variables. As mentioned earlier, an ever-increasing amount of educational content is being delivered through broadcast and online courses, increased direct costs for which are minimal. And CJER is only one provider. Other providers include associations, local courts, and others. CJER will share its curriculum work with local courts and associations and will offer train-the-trainer packages for many areas of content to increase sources of continuing education for court personnel.

Local Level:

Costs to local courts for supporting judges to participate in education to meet minimum education requirements will vary. For CJER courses, state funds currently cover lodging and

group meals; there is no registration expense. Travel and non-group meal costs are currently the responsibility of the local court or individual judge. Although local courts currently support enough attendance by judges at CJER programs to total 15 hours for every judge in the branch, we know that many judges attend more and some attend nothing. So, it is assumed that these costs will be redistributed among the courts if all judges are required to earn minimum education requirements. At the local court level, the cost of providing education or partially reimbursing expenses for attendance by judges will increase for some courts. Since there are many ways to meet the minimum education requirements, there is not one formula for projecting costs to a local court. Using a few of the examples, possible expenses for a single judge might be:

Minimum Education Requirement for Judges: 30 hours in three-year cycle

Example:

- Three-day CJER Continuing Judicial Studies Program (18 hours)
- Day-long local court training (6 hours)
- Qualifying Ethics (5 hours)
- Broadcast (1 hour)

Cost to the local court:

CJSP: travel (\$300), per diem (3 x \$40), ground transportation (\$50) = \$ 470

Local: (if taught by local court judge or other no-cost faculty) none

Ethics: travel (\$300), per diem (\$40), ground transportation (\$50) = \$390

Broadcast: no cost

Total: \$860 over a three-year period or approximately \$287 per year

Example:

- One CJER Institute (14 hours)
- Qualifying Ethics (5 hours)
- Courses at CJA Mid-Year Conference (10 hours)
- Online Course (1 hour)

Cost to the local court:

Institute: travel (\$300), per diem (\$40), ground transportation (\$50) = \$390

Ethics: travel (\$300), per diem (\$40), ground transportation (\$50) = \$390

CJA: travel (\$300), lodging (\$350), per diem (\$40), ground transportation (\$50), registration (\$350) = \$1090 (*some judges may pay portions of this personally*)

Online Course: no cost

Total: \$1870 over a three-year period or approximately \$624 per year

So, the annual cost for the local court for a judge who stays in-state for continuing education could range between \$287 and \$624. There would be the additional cost-of-time for a judge to participate in continuing education, although many judges currently earn much more than the minimum education requirements.

At the local level, costs for supporting court personnel to participate in education to meet minimum education requirements will vary. For CJER courses, state funds currently cover

lodging and group meals; there is no registration expense. Travel and non-group meal costs are currently the responsibility of the local court or individual employee. At the local court level, the cost of providing education or partially reimbursing expenses for attendance by court personnel will increase. Based on 1,167 respondents to a recent survey, court personnel reported participating in an average of 8 hours of continuing education each year. Although for court personnel, the minimum education requirement is 8 hours over two years (12 hours over two years for managers and supervisors), unlike judicial education (in which case CJER offers more than enough content), the division does not currently offer enough content for court personnel to obtain that amount of education. Although CJER is not the only source of education, it is unlikely that local courts are fiscally prepared to support court personnel fully participating in continuing education. Although the Education Division/CJER plans to increase broadcast and online courses, the volume of court personnel, their workload, and the shortage of training funds at the local level will be obstacles. As with judges, there are many ways in which court personnel can achieve minimum education requirements. Using a few of the examples, possible expenses for a single court employee might be:

Minimum Education Requirement for Court Personnel: 8 hours in two-year cycle

Example:

- Day-long regional course by California Court Association (6 hours)
- Two-hour CJER broadcast

Cost to the local court:

CCA: travel (\$200 – participants generally drive), per diem (\$20), lodging (\$110 maximum), ground transportation (\$50), registration, including lunch (\$52 non-member) = \$432

Broadcast: none

Total: \$532 in a two-year period or \$216 per year

Example:

- CJER regional course (5 hours)
- Half-day local court course (3 hours)

Cost to the local court:

Regional: travel (\$300), per diem (\$40), ground transportation (\$50) = \$390

Local: (if taught by local court staff or other no-cost faculty) none

Total: \$390 in a two-year period or \$195 per year

Example:

- Two CJER broadcasts (4 hours)
- Two local court courses (4 hours)

Cost to the local court:

Broadcast: none

Local: (if taught by local court staff or other no-cost faculty) none

Total: none

So, the annual cost for a local court for an employee who stays in-state for continuing education could range from nothing to \$216. There would be the additional cost-of-time for an employee to participate in continuing education, although many court personnel currently earn more than the minimum education requirements.

Reason

Why have requirements at all? What is the problem or need that underlies this proposal?

The following three quotations are from the many comments received in 2005 from respondents supportive of minimum education requirements; these comments provide some answers to this question:

- The skyrocketing complexity of the law, not to mention the wide range of practical and ethical problems inherent in being a judge, more than justify it.
- It sends the right message to the Legislature, the public and members of the judiciary.
- I do not understand the debate. The court should lead and establish minimum requirements. The litigants expect and deserve no less.

The motivation for minimum education requirements is not simply correcting deficiencies. Ongoing professional development necessarily includes relevant education and training as a component of best practices, regardless of the profession. Minimum education requirements are one mechanism to facilitate that goal.

Record Keeping/Tracking

Who is responsible for tracking completion of minimum education requirements?

Each judge is responsible for tracking his/her participation in education, including faculty service, and is to give the presiding judge a copy of the record of participation at the end of each year and a signed statement of completion at the end of each three-year period. (Sample planning and record keeping/tracking forms are provided in this document.)

Each executive officer is responsible for tracking his/her participation in education, including faculty service, and is to give the presiding judge a copy of the record of participation at the end of each year and a signed statement of completion at the end of each three-year period. (Sample planning and record keeping/tracking forms are provided in this document.)

The executive officer, or his/her designee(s) (e.g. managers/supervisors), is responsible for tracking participation in education by managers, supervisors, and court personnel. (Sample planning and record keeping/tracking forms are provided in this document.)

Scope

Why are assigned judges as well as the justices and personnel of the appellate courts not included in minimum education requirements?

Regarding assigned judges, the Chief Justice has already established their education requirements. Regarding appellate justices, the education requirement for new Court of Appeal justices in Rule 970(e)(2) would be carried forward without change in new Rule 6.411, but no additional education requirements would be established for appellate justices at this time. It was determined that the work and therefore the educational needs of appellate justices and appellate court personnel are different from those of trial court judges and court personnel. Implementing minimum education requirements in the trial courts seemed most relevant to trust and confidence in the courts, because the greatest interaction with the public takes place in the trial courts. So the focus of the research and this proposal was the trial courts. If this proposal were adopted, the CJER Governing Committee would study the appellate courts next and consider what recommendations to make regarding minimum education requirements for appellate justices and appellate court personnel.

Examples/Illustrations of Completing Minimum Requirements

The following charts outline minimum education requirements for judges, court executive officers, managers and supervisors, and court personnel. The charts include content-based requirements and associated providers as well as hours-based requirements and some potential providers.

The examples included in the charts are offered to illustrate the completion of the minimum education requirements set out in rules 6.412–6.414. They do not represent the only means by which the requirements can be completed.

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Trial Court Presiding Judges

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
Presiding judge (and assistant presiding judge, at the discretion of the local court)	30 hours per individualized three-year cycle	
New presiding judge (or assistant presiding judge before taking office as presiding judge)	Presiding Judges Orientation and Court Management Program <i>Provider: CJER</i>	<u>Example 1 (total of 37 hours)</u> <ul style="list-style-type: none"> • Presiding Judges Orientation and Court Management Program (18 hours) • Statewide Judicial Branch Conference (12 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) <u>Example 2 (total of 34 hours)</u> <ul style="list-style-type: none"> • Presiding Judges Orientation and Court Management Program (18 hours) • Daylong local court course (6 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • Self-directed study (3 hours)
Experienced presiding judge (and assistant presiding judge, at the discretion of the local court)	<i>Providers: multiple</i>	Some Annual Course Options <ul style="list-style-type: none"> • CJER offerings: <ul style="list-style-type: none"> ○ PJ/CEO Roundtable (4 broadcasts) ○ Statewide Judicial Branch Conference (biannual) ○ Online courses ○ Qualifying Ethics ○ Institutes

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
		<ul style="list-style-type: none"> ○ Continuing Judicial Studies Program ○ <i>Today's Law</i> broadcasts ○ <i>Inside Justice</i> broadcasts • Management courses <ul style="list-style-type: none"> ○ Institute for Court Management ○ National Judicial College ○ American Management Association ○ University courses ○ Other state/national courses • Other AOC division courses or special trainings (e.g., Collections) • California Judges Association courses • Local court courses <p>Examples for completing 30 hours in a three-year cycle:</p> <p><u>Example 1 (total of 31 hours)</u></p> <ul style="list-style-type: none"> • Statewide Judicial Branch Conference (12 hours) • Two-day management course through National Judicial College (12 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) <p><u>Example 2 (total of 32.5 hours)</u></p> <ul style="list-style-type: none"> • Statewide Judicial Branch Conference (12 hours) • Four PJ/CEO Roundtable broadcasts (4 @ .75 = 3 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • First-time faculty for a 3.5-hour course at Continuing Judicial Studies Program (10.5 hours)

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
		<p><u>Example 3 (total of 31 hours)</u></p> <ul style="list-style-type: none"> • One two-day management course through Institute for Court Management (12 hours) • Daylong special training (e.g., AOC Collections) (6 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • CJER online course (6 hours) <p><u>Example 4 (total of 32 hours)</u></p> <ul style="list-style-type: none"> • Four PJ/CEO Roundtable broadcasts (4 @ .75 = 3 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • Statewide Judicial Branch Conference (12 hours) • Returning faculty for all-day course at a CJER institute (10 hours) <p><u>Example 5 (total of 31 hours)</u></p> <ul style="list-style-type: none"> • Rural Courts Institute (14 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • Four PJ/CEO Roundtable broadcasts (4 @ .75 = 3 hours) • CJER online course (7 hours)

Trial Court Supervising Judges

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
<i>Supervising judge</i>	30 hours per individualized three-year cycle	
<i>New supervising judge with administrative responsibility (before taking office)</i>	Supervising Judges Overview course <i>Provider: CJER</i>	<u>Example 1 (total of 31 hours)</u> <ul style="list-style-type: none"> • Supervising Judges Overview course (12 hours) • Statewide Judicial Branch Conference (12 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours)
<i>New supervising judge with calendar management responsibility</i>	Calendar Management Overview course <i>Provider: CJER or local court</i>	<u>Example 2 (total of 31 hours)</u> <ul style="list-style-type: none"> • Supervising judges' calendar management course (6 hours) • Courses at CJA annual and midyear meetings (12 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • Self-directed study (3 hours) • Four PJ/CEO Roundtable broadcasts (4 @ .75 hour = 3 hours)
<i>Experienced supervising judge</i>	<i>Providers: multiple</i>	Some Annual Course Options <ul style="list-style-type: none"> • CJER offerings: <ul style="list-style-type: none"> ○ PJ/CEO Roundtable broadcasts (4 per year) ○ Statewide Judicial Branch Conference (biannual) ○ Self-directed study through CJER Online Resource Center ○ Qualifying Ethics ○ Institutes ○ Continuing Judicial Studies Program

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
		<ul style="list-style-type: none"> • Management courses through Institute for Court Management, National Judicial College, American Management Association, or other national providers • Other AOC division courses or special trainings (e.g., Collections) • Local court courses <p>Examples for completing 30 hours in a three-year cycle:</p> <p><u>Example 1 (total of 31 hours)</u></p> <ul style="list-style-type: none"> • Four PJ/CEO Roundtable broadcasts (4 @ .75 hour = 3 hours) • One two-day management course through National Judicial College (12 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • AOC special training (6 hours) • Self-directed study (3 hours) <p><u>Example 2 (total of 32.5 hours)</u></p> <ul style="list-style-type: none"> • Statewide Judicial Branch Conference (12 hours) • First-time faculty for a 3.5-hour course at CJA annual meeting (10.5 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • Self-directed study (3 hours) <p><u>Example 3 (total of 37 hours)</u></p> <ul style="list-style-type: none"> • Rural Courts Institute (14 hours) • Daylong special training (e.g., Collections) (6 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours)

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
		<ul style="list-style-type: none"> • Returning faculty for an all-day course at Continuing Judicial Studies Program (10 hours) <p><u>Example 4 (total of 31 hours)</u></p> <ul style="list-style-type: none"> • Four PJ/CEO Roundtable broadcasts (4 @ .75 hour = 3 hours) • Daylong course through local court (6 hours) • Statewide Judicial Branch Conference (12 hours) • CJER Online Resource Center course (3 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours)

Trial Court Judges and Subordinate Judicial Officers

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
<i>New</i> judge or subordinate judicial officer	<p>New Judge Orientation (within the first six months of taking the bench)</p> <p><i>Provider: CJER</i></p> <p>B. E. Witkin Judicial College (within the first two years of taking the bench)</p> <p><i>Provider: CJER</i></p> <p>Assignment-based overview course (within the first year of taking the bench)</p> <p><i>Provider: CJER</i></p>	<i>These two programs also satisfy the Qualifying Ethics requirement for a new judge.</i>
<i>Experienced</i> judge or subordinate judicial officer NOT changing primary assignment	<p>30 hours per individualized three-year cycle</p> <p><i>Providers: multiple</i></p>	<p>Some Annual Course Options</p> <ul style="list-style-type: none"> • CJER offerings: <ul style="list-style-type: none"> ○ Annual institutes ○ Continuing Judicial Studies Program courses ○ <i>Today's Law</i> broadcasts ○ <i>Great Minds</i> broadcasts ○ Statewide Judicial Branch Conference (biannual) ○ Online courses ○ Qualifying Ethics • CJA midyear and annual meetings • National Judicial College • Local court programs • Other AOC division programs (e.g., CFCC's Beyond the Bench) • National Association of Women Judges Conference courses • American Judges Association Conference courses

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
		<p>Examples for completing 30 hours in a three-year cycle:</p> <p><u>Example 1 (total of 31 hours)</u></p> <ul style="list-style-type: none"> • One CJER institute (14 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • Courses at CJA annual and midyear conferences (10 hours) <p><u>Example 2 (total of 31 hours)</u></p> <ul style="list-style-type: none"> • Three-day CJER Continuing Judicial Studies Program (18 hours) • Daylong local court training (6 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) <p><u>Example 3 (total of 31 hours)</u></p> <ul style="list-style-type: none"> • CFCC’s Beyond the Bench conference (14 hours) • Half-day broadcast (3 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • Online course in specialty area (3 hours) • Self-directed study (4 hours) <p><u>Example 4 (total of 31.5 hours)</u></p> <ul style="list-style-type: none"> • CJER institute (14 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • First-time faculty for a 3.5-hour course at a CJA annual meeting (10.5 hours) <p><u>Example 5 (total of 31 hours)</u></p> <ul style="list-style-type: none"> • National Association of Women Judges annual conference (14 hours) • Qualifying Ethics (5 hours)

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
		<ul style="list-style-type: none"> • Sexual Harassment Prevention (2 hours) • Returning faculty for an all-day course at Continuing Judicial Studies Program (10 hours) <p><u>Example 6 (total of 31 hours)</u></p> <ul style="list-style-type: none"> • Courses at CJA annual and midyear conferences (24 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) <p><u>Example 7 (total of 31 hours)</u></p> <ul style="list-style-type: none"> • Advanced 2.5-day Continuing Judicial Studies Program course in a subject area (14 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • Faculty for a 5-hour local court program (10 hours) <p><u>Example 8 (total of 31 hours)</u></p> <ul style="list-style-type: none"> • One-hour broadcast every quarter (12 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • Local court's 4-hour legal update seminar every year (12 hours) <p><u>Example 9 (total of 33 hours)</u></p> <ul style="list-style-type: none"> • Rural Court Institute (14 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • One-hour broadcast every quarter (12 hours)

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
<i>Experienced</i> judge or subordinate judicial officer CHANGING primary assignment	30 hours per individualized three-year cycle <i>Providers: multiple</i> Including an assignment-based course in the new assignment <i>Provider: CJER, local court, or CJA (based on CJER curriculum work)</i>	<u>Example 1 (total of 37 hours)</u> <ul style="list-style-type: none"> • CJER overview course (30 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) <u>Example 2 (total of 31 hours)</u> <ul style="list-style-type: none"> • An overview course through a local court (e.g., 10 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • American Judges Association annual conference (14 hours)

Executive Officers

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
<i>New</i> executive officer (and new assistant or deputy executive officer, at the discretion of the local court)	<p>Within the first year: Presiding Judges Orientation and Court Management Program</p> <p><i>Provider: CJER</i></p>	
Experienced executive officer (and experienced assistant or deputy executive officer, at the discretion of the local court)	<p>30 hours per individualized three-year cycle</p> <p><i>Providers: multiple</i></p>	<p>Some Annual Course Options</p> <ul style="list-style-type: none"> • CJER offerings: <ul style="list-style-type: none"> ○ PJ/CEO Roundtable (4 broadcasts) ○ Broadcasts on management issues ○ Statewide Judicial Branch Conference (biannual) ○ Self-study through CJER Online Resource Center ○ Conflict of Interest course • Management courses through <ul style="list-style-type: none"> ○ Institute for Court Management ○ National Judicial College ○ American Management Association ○ University courses ○ National Association for Court Management ○ Other state and national providers • Other AOC division courses or special trainings (e.g., Collections) • Local court courses

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
		<p>Examples for completing 30 hours in a three-year cycle</p> <p><u>Example 1 (total of 32 hours)</u></p> <ul style="list-style-type: none"> • Four PJ/CEO Roundtable broadcasts (4 @ .75 hour =3 hours) • Statewide Judicial Branch Conference (12 hours) • Conflict of Interest online course (3 hours) • Two-day course on management through Institute for Court Management (12 hours) • Sexual Harassment Prevention (2 hours) <p><u>Example 2 (total of 32 hours)</u></p> <ul style="list-style-type: none"> • Statewide Judicial Branch Conference (12 hours) • First-time faculty for a 4-hour course at the Statewide Judicial Branch Conference (12 hours) • Conflict of Interest course (3 hours) • Sexual Harassment Prevention (2 hours) • Self-directed study (3 hours) <p><u>Example 3 (total of 32 hours)</u></p> <ul style="list-style-type: none"> • Conflict of Interest course (3 hours) • Statewide Judicial Branch Conference (12 hours) • One 2-day management course through Institute for Court Management (12 hours) • Two 90-minute broadcasts on management issues (3 hours) • Sexual Harassment Prevention (2 hours) <p><u>Example 4 (total of 35 hours)</u></p> <ul style="list-style-type: none"> • CJER Presiding Judges and Court Management Program <i>with new presiding judge</i> (18 hours)

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
		<ul style="list-style-type: none"> • Statewide Judicial Branch Conference (12 hours) • Conflict of Interest online course (3 hours) • Sexual Harassment Prevention (2 hours) <p><u>Example 5 (total of 33 hours)</u></p> <ul style="list-style-type: none"> • Statewide Judicial Branch Conference (12 hours) • Conflict of Interest online course (3 hours) • Two breakout sessions at a National Association for Court Management conference (6 hours) • Sexual Harassment Prevention (2 hours) • Returning faculty for an all-day course at California Court Association (10 hours)

Managers and Supervisors

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
<i>New</i> manager or supervisor	<p>Within the first six months:</p> <ul style="list-style-type: none"> • Orientation to basic management/supervision issues—including legal compliance training for supervisors, including Integrated Disability Management, Safety, Family and Medical Leave Act, Preventing Sexual Harassment, Americans with Disabilities Act, Preventing Discrimination <p><i>If new to the court:</i></p> <ul style="list-style-type: none"> • Orientation to the judicial branch of California • Orientation to the local court <p><i>Provider: CJER and/or local court</i></p>	
<i>Experienced</i> manager or supervisor	<p>12 hours per defined two-year cycle</p> <p><i>Providers: multiple</i></p>	<p>Some Annual Course Options</p> <ul style="list-style-type: none"> • CJER offerings: <ul style="list-style-type: none"> ○ Regional supervisory series ○ Management broadcasts ○ Core 40 regional training • Local court courses • University courses • National provider courses <ul style="list-style-type: none"> ○ Institute for Court Management ○ National Association for Court Management

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
		<ul style="list-style-type: none"> • State association courses (California Court Association) • Other AOC division courses or special trainings (e.g., Collections) <p>Examples for completing 12 hours in a two-year cycle:</p> <p><u>Example 1 (total of 15.5 hours)</u></p> <ul style="list-style-type: none"> • One day CJER regional training session (6 hours) • Two 1.5-hour supervisory broadcasts (3 hours) • First-time faculty for a 1.5-hour course at a local court (4.5 hours) • Sexual Harassment Prevention (2 hours) <p><u>Example 2 (total of 14 hours)</u></p> <ul style="list-style-type: none"> • Two days of courses at the California Court Association Conference (12 hours) • Sexual Harassment Prevention (2 hours) <p><u>Example 3 (total of 14 hours)</u></p> <ul style="list-style-type: none"> • National Association for Court Management Conference (12 hours) • Sexual Harassment Prevention (2 hours) <p><u>Example 4 (total of 14 hours)</u></p> <ul style="list-style-type: none"> • One CJER regional one-day elective course (6 hours) • Returning faculty for a 3-hour course at California Court Association (6 hours) • Sexual Harassment Prevention (2 hours)

Court Personnel

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
<i>New</i> court personnel	<p>Within the first year:</p> <ul style="list-style-type: none"> • Orientation to the judicial system, the local court, basic employment issues, and the job <p><i>Provider: CJER and/or local court</i></p>	
<i>Experienced</i> court personnel	<p>8 hours per defined two-year cycle</p> <p><i>Providers: multiple</i></p>	<p>Some Annual Course Options</p> <ul style="list-style-type: none"> • CJER offerings: <ul style="list-style-type: none"> ○ Regional courses ○ Broadcasts ○ Court Clerk Training Institute • Local court courses • Other AOC division courses (e.g., HR Fast-Track for HR professionals) • State association courses (e.g., California Court Association Conference) • Courses at academic institutions <p>Examples for completing 8 hours in a two-year cycle:</p> <p><u>Example 1 (total of 8 hours)</u></p> <ul style="list-style-type: none"> • One CJER broadcast (1 hour) • Half-day local court course (3 hours) • Returning faculty for a 2-hour regional course (4 hours) <p><u>Example 2 (total of 8 hours)</u></p> <ul style="list-style-type: none"> • Day-and-a-half course at California Courts Association Conference (8 hours)

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
		<u>Example 3 (total of 9 hours)</u> <ul style="list-style-type: none"> • CJER regional course (6 hours) • Half-day local court course (3 hours)



Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

455 Golden Gate Avenue • San Francisco, California 94102-3688
Telephone 415-865-4200 • Fax 415-865-4205 • TDD 415-865-4272

MEMORANDUM

Date

April 13, 2006

To

Members of the Rules and Projects Committee

From

Michael Bergeisen, General Counsel
Deborah Brown, Managing Attorney
Susan Goins, Senior Attorney
Office of the General Counsel

Subject

Judicial Council's Rule-Making Authority for Minimum Education Requirements for Judges
(Appendix to Invitation to Comment SP06-14)

Introduction

As described in the accompanying Invitation to Comment, the Governing Committee of the Center for Judicial Education and Research (CJER Governing Committee) proposes rules for minimum education requirements for the judicial branch. The Office of the General Counsel has been asked to provide a legal opinion about the Judicial Council's authority to adopt such rules, to be included with the Invitation to Comment. This memorandum sets forth our legal opinion.

Question Presented

Does the Judicial Council have the authority to adopt rules requiring minimum education for judges?

Short Answer

Yes, we conclude that the Judicial Council has the authority to adopt rules requiring minimum education for judges. We reach this conclusion because rules requiring minimum education for judges are within the council's authority to adopt rules for court administration, are not inconsistent with statute, and do not add a qualification for judicial office.

Analysis

- A. We conclude that a rule of court requiring minimum legal education for judges is within the council's authority to adopt rules for court administration.**
- 1. The legal basis for a rule requiring minimum legal education for judges is the council's authority to improve the administration of justice by adopting rules for court administration, practice, and procedure.**

The Judicial Council's composition and powers are specified in article VI, section 6 of the California Constitution. Section 6(d) of that section describes the council's rule-making authority:

To improve the administration of justice the council shall survey judicial business and make recommendations to the courts, make recommendations annually to the Governor and Legislature, adopt rules for court administration, practice and procedure, and perform other functions prescribed by statute. The rules adopted shall not be inconsistent with statute.

Thus, the council has the authority to adopt rules relating to "court administration, practice and procedure," which rules have the force of law as long as they are not inconsistent with statute. (*People v. Hall* (1994) 8 Cal.4th 950, 960.) Therefore, the first question is whether a minimum judicial education rule would fall within the scope of article VI, section 6(d) as a rule relating to "court administration, practice and procedure." We conclude that it would.

We have found no definition of “court administration” as it is used in article VI in California case law.¹ However, a number of other states have adopted mandatory judicial education rules relying on authority over court administration. Likewise, respected national and California commentators, as well as the American Bar Association explicitly address judicial education requirements as a part of court administration. Finally, the California Rules of Court recognize judicial education as integral to the administration—that is, the management and operation—of the courts.² Considering the strong nexus between judicial education and court administration recognized by these authorities, we conclude that the council’s article VI authority over “court administration” permits it to adopt minimum judicial education rules.

2. A large number of states have adopted continuing education requirements for judges. To do so, some have relied on constitutional rule-making authority over the administration of the courts.

The National Center for State Courts, Court Statistics Project, reports that as of September 2005, 42 states require continuing education for general-jurisdiction judges. In several instances, the state’s judicial branch entity adopting the rule requiring judicial education did so pursuant to its authority over court administration and considered the rule to be a rule of judicial administration.

For example, Florida’s Supreme Court is responsible for promulgating “rules for the practice and procedure in all courts including . . . the administrative supervision of all courts”—which rules can be repealed only by a law enacted by two-thirds of the membership of each house of the Legislature. (Fla. Const., art. V, § 2; *School Board of Broward County v. Surette* (Fla. 1973) 281 So.2d 481, 483.) Rule 2.150 of the Florida Rules of Judicial Administration provides that judges “shall complete a minimum of 30 credit hours of approved judicial education programs every 3 years. Two must be in the area of judicial ethics. In addition to the 30-hour requirement, every judge new to a level of trial court must complete the Florida Judicial College program in that

¹ Nor does the Constitution define the phrase further. It should be noted, however, that when the council’s authority to adopt rules was expanded to include court administration in 1966, the expressed intent behind the change was to increase the council’s authority. Before this change, the council’s authority extended only to rules of practice and procedure. The California Constitution Revision Commission, which proposed the amendments, explained: “The rule-making power of the council may be broadened somewhat by the addition of ‘court administration’ to the present phrase ‘practice and procedure.’ This is in accord with language used in states that have recently adopted new constitutions and meets the needs of a rapidly growing court structure.” (Cal. Const. Revision Com., *Proposed Revision of the California Constitution* (San Francisco: Cal. Const. Revision Com. 1966), p. 88.)

² *Black’s Law Dictionary* defines “administration” as the “performance of the executive duties of an institution, business, or the like. In public law, the administration of government means the practical management and direction of the executive department or of the public machinery or functions, or of the operations of the various organs or agencies.” (*Black’s Law Dictionary*, 6th ed. (1990), p. 44, col. 2.)

judge's first year of judicial service following selection to that level of court; every new appellate court judge or justice must, within 2 years following selection to that level of court, complete an approved appellate-judge program."

Similarly, in Arizona, the Supreme Court has enacted a comprehensive judicial education and training program "in accordance with the administrative authority vested in the Supreme Court by Article VI, Section 3 of the Arizona Constitution." (Supreme Ct. of Ariz., Educational Policies & Stds., Admin. Order 89-2.) Article VI, section 3 states, in part, that the "Supreme Court shall have administrative supervision over all the courts of the State." Pursuant to this constitutional authority, the Arizona Supreme Court enacted canon 3 of Arizona's Code of Judicial Conduct, which states that judges "shall participate actively in judicial education programs and shall complete mandatory judicial education requirements." (17A A.R.S. Sup.Ct.Rules, Rule 81, Code of Jud. Conduct, Canon 3B(13).) Arizona's Council on Judicial Education and Training (COJET) is a standing committee of the Arizona Judicial Council and the regulatory body responsible for implementing and ensuring compliance with the Supreme Court's judicial educational requirements. Arizona requires its bench officers to attend 16 hours of mandatory educational training each year.³ (Supreme Ct. of Ariz., Stds. Governing Judicial Branch Education, Admin. Order 99-8.)

Finally, Utah's Constitution authorizes that state's Judicial Council to "adopt rules for the administration of the courts of the state." (Utah Const., art. VIII, § 12.) Pursuant to this rule-making authority, the council adopted rules relating to judicial education. Rule 1-102 of the Utah Code of Judicial Administration, for instance, states: "Consistent with the status of the judiciary as a co-equal branch of government, the Council is committed to developing uniform policies to improv[e] the opportunity for and the quality of continuing education for judges and staff." (Utah Rules Jud. Admin., rule 1-102(3)(C).) The council also adopted rule 3-403, "Judicial Branch Education," which establishes education standards for judges and other court staff, and requires that judges complete 30 hours of continuing education annually.⁴ (Utah Rules Jud. Admin., rule 3-403.)

Thus, the proposed minimum education rules are consistent with what other states are doing. As stated above, in some states, minimum education rules were adopted under the state judicial branch entity's authority over court administration and included as rules of judicial

³ The 1996 amendment notes to rule 45 of the Arizona Supreme Court Rules (Ariz. Revised Stats. 17A) state that COJET "is responsible for enforcing educational compliance through audits or other methods."

⁴ Tim Shea, an attorney in Utah's Administrative Office of the Courts, confirmed that the council adopted the above-referenced rules pursuant to its rule-making authority in article VIII, section 12 of the state Constitution.

administration. At least with respect to the above-referenced rules, none has been challenged as being outside the scope of court administration or on any other ground.

3. Respected national and California commentators and the American Bar Association explicitly address mandatory judicial education rules as a part of court administration.

The American Bar Association (ABA) and commentators on judicial administration also provide support for including judicial education as a component of judicial administration on the basis that it improves the professional competence of the judiciary. In its Standards of Judicial Administration, the ABA specifically provides for continuing judicial education. (ABA Stds. Jud. Admin. (1990), std. 1.25, pp. 64–66.) Section 1.25 of the standards states: “Judges should maintain and improve their professional competence through programs of continuing professional education. Court systems should operate programs of and support judges’ participation in training and education, including programs of orientation for new judges and refresher education for experienced judges in developments in the law and in technique in judicial and administrative functions.” (*Id.* at p. 64.) The commentary to this section adds that “[c]ontinuing training and education for judges is essential to establishing and maintaining a satisfactory level of professional competence in the judiciary. . . . The tasks of organizing and conducting continuing judicial education are the responsibility of the court system, and should be carried out under the supervision of the chief justice through the administrative office.” (*Id.* at pp. 64–65. See also pp. 89–91, describing responsibilities of administrative office of the courts as including “management of the court system’s continuing education program for judges, judicial officers, administrators, and other court personnel.”) In the book *Creating the Judicial Branch*, Robert Tobin states that judicial education is a major concern of chief justices and adds: “The educational requirements for judges and the extent to which these requirements are enforced constitute a major *administrative* responsibility that involves policymaking by the full court and the administrative oversight of the chief.” (R. Tobin, *Creating the Judicial Branch: The Unfinished Reform* (Lincoln, Neb.: Authors Choice Press, 1999) p. 151.) These authorities and others confirm that judicial education is accepted as the norm today, with mandatory judicial education being considered essential to the fair administration of justice. (See, e.g., L. Sipes, *Committed to Justice: The Rise of Judicial Administration in California* (San Francisco: Admin. Off. of Cal. Cts., 2002), p. 214 [“By 1990, most states had gone to some form of mandatory judicial education.”].)

4. The California Rules of Court recognize judicial education as integral to the administration of the courts.

The California Rules of Court recognize judicial education as integral to the administration of the courts. Presiding judges currently have many “administrative” duties. For example, under rule 6.603 of the California Rules of Court, they are charged with making appropriate judicial assignments. In doing so, presiding judges must be certain that a judge assigned to a particular courtroom has the substantive and procedural expertise required to handle his or her assignment. Rule 6.603 specifically states that in making judicial assignments, presiding judges “must take into account . . . the knowledge and abilities demanded by the assignment . . . [and] the judge’s judicial and nonjudicial experience, *including specialized training or education.*” (Cal. Rules of Court, rule 6.603(c)(1)(A)(ii)–(iii), italics added.) Minimum education requirements for judges would enable a presiding judge to make judicial assignments with full confidence that the judges given those assignments have (or will have) the required training.

Judicial education is also integral to court administration in that a judiciary that receives necessary training and is professionally competent is necessary to ensure that justice is being properly administered. This is noted in current rule 970, which states that judicial education “enhances the fair and efficient administration of justice.” (Cal. Rules of Court, rule 970(a).) In addition to setting forth minimum judicial education requirements for new judicial officers, rule 970 provides information about judicial education responsibility, sets forth educational objectives, and provides information for presiding judges about budgeting for judicial education and providing educational leave to judicial officers. (Cal. Rules of Court, rule 970.) One of the conclusions reached in the CJER Standing Advisory Committee’s April 1994 memorandum on then-proposed rule 970 was that “[m]inimum judicial education requirements would ensure that all judicial officers have equal opportunity to develop and maintain their professional competence and *would improve the administration of justice* by ensuring that all judicial officers are aware of and familiar with the law and procedure necessary to perform their duties effectively.” (Judicial Council Report, May 9, 1994, Minimum Judicial Education Requirements, pp. 3-4, italics added.) For over ten years, since the adoption of rule 970, California has required specific education for new judicial officers. Rule 970 has not been challenged, and is generally viewed as a necessary component of the administration of the courts.

Minimum judicial education also is consistent with the spirit of canon 3B(2) of the California Code of Judicial Ethics, which provides, in part, that a “judge shall . . . maintain professional competence in the law.” Likewise, canon 2A states that a “judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and

impartiality of the judiciary.” In addition, the preamble to the Code of Judicial Ethics states: “Our legal system is based on the principle that an independent, fair and *competent judiciary* will interpret and apply the laws that govern us.” (Italics added.)

Although we conclude that the council has the authority to adopt a minimum judicial education rule, reasonable counterarguments can be made based on a narrower reading of the council’s rule-making power. Some of those who argue that adopting such a rule is beyond the council’s rule-making authority contend that the phrase “adopt rules for court administration, practice and procedure” in article VI is commonly understood to encompass functions within the authority of the court’s leadership, but not minimum judicial education requirements. Others argue that minimum judicial education goes well beyond the administration of the courts, the practices of the courts, and the procedures used in the courts, as those terms are traditionally understood. The proponents of that argument note that with the exception of rule 970, the rules of court have always addressed administration, practices, and procedures, such as hours of operation, functioning of court departments, selection of a presiding judge, and delay reduction; and minimum judicial education rules are claimed to be a radical departure from past rule-making.

As shown above, however, other states’ actions, respected national and California commentators, as well as the ABA provide support for the conclusion that the phrase “court administration” in article VI encompasses minimum judicial education rules. Even *Black’s Law Dictionary* defines administration to include the management and direction of a public entity. Finally, as indicated in the rules of court, for presiding judges to be able to properly administer their courts, they and the public need to be confident that judges are professionally competent in the areas to which they are assigned. Therefore, we conclude that the council’s authority to adopt “rules for court administration” includes minimum judicial education requirements.

B. We conclude that a rule of court requiring minimum legal education for judges is not inconsistent with statute.

To be valid, a California Rule of Court not only must fall within the subject matter of the council’s constitutional authority but also must “not be inconsistent with statute.” (Cal. Const., art. VI, § 6.)

Several statutes require or authorize the council to provide judicial training and education in various areas, including new judge orientation; criminal sentencing; juvenile law; family law; domestic violence matters; and prevention of sexual harassment and racial, ethnic, and gender

bias.⁵ (See Gov. Code, §§ 68088, 68551, 68553, 68555; Welf. & Inst. Code, §§ 264, 304.7; Pen. Code, §§ 1170.5, 13828.1.) As described below, however, we conclude that a rule requiring minimum judicial education is not inconsistent with those statutes.

Several cases have addressed the council's rule-making authority. Most recently, in *Sara M. v. Superior Court* (2005) 36 Cal.4th 998, 1011, the Supreme Court reiterated that "rules have the force of statute to the extent that they are not inconsistent with legislative enactments and constitutional provisions." (Internal citations omitted.) (See also *Alicia T. v. County of Los Angeles* (1990) 222 Cal.App.3d 869, 884 [rules adopted by the council have "the force of positive law and must be complied with provided they do not conflict with any act of the Legislature"].)

Sara M. addressed the validity of a rule of court the council had adopted that interpreted a statute. The court contrasted this with a rule promulgated as part of the broader "lawmaking power" delegated to an entity. (*Sara M.*, *supra*, 36 Cal.4th at p. 1012.) Comparing the two, the court stated that judicial review of rules promulgated as part of an agency's lawmaking power is very limited, whereas rules that interpret a statute are entitled to less judicial deference. (*Ibid.*) The court commented that rules of court adopted by the Judicial Council can fall under either category and considered the rule at issue in *Sara M.* an interpretive rule. (*Id.* at p. 1013.)

In determining how much weight to give a rule interpreting a statute, the court stated that such a review is "situational" and depends on a number of factors—whether the interpretation (1) is contained in a rule adopted after public notice and comment, rather than prepared by a single staff person without notice and comment; (2) is long-standing and consistently maintained; and (3) was contemporaneous with the legislative enactment of the statute being interpreted. (*Sara M.*, *supra*, 36 Cal.4th at p. 1013.) The court found all these factors present in the rule at issue in *Sara M.* (*Id.* at pp. 1013–1014.) "All of these circumstances support the conclusion that the formal rules the Judicial Council adopts that interpret a statute, including rule 1460, are entitled to a measure of judicial deference. Accordingly, rule 1460's interpretation of section 366.21, subdivision (e), although not binding on the courts and invalid if contrary to statute, is entitled to great weight and will be overturned only if it is clearly erroneous." (*Id.* at p. 1014, internal citations omitted.)

It should be noted that this was the standard applied where the council's rule was entitled to *less* judicial deference. The minimum judicial education rules would not involve the interpretation of a statute as in *Sara M.*, but the exercise of the council's "lawmaking power" delegated in the

⁵ Those statutes are reviewed below and a summary of those statutes is attached to this memorandum.

Constitution. Such a rule would be entitled to *greater* deference under *Sara M.* (*Sara M.*, *supra*, 36 Cal.4th at p. 1012.)

Earlier cases provide additional guidance. In *Butterfield v. Butterfield* (1934) 1 Cal. 2d 227, the California Supreme Court stated that the mere fact that a rule goes beyond a statute does not make it inconsistent with the statute. The Court of Appeal, in *People v. Reeder* (1984) 152 Cal.App.3d 900, stated that a court should uphold a rule even if it is “not perfectly congruent” with a statute, so long as the two are reconcilable.

In contrast, in *Trans-Action Commercial Investors, Ltd. v. Firmaterr, Inc.* (1997) 60 Cal.App. 4th 352, 364, the Court of Appeal struck down a rule of court as inconsistent with statute. The Court of Appeal stated that the council’s rule-making authority is subordinate to that of the Legislature: “The Legislature’s primary constitutional authority to provide the rules governing judicial procedure necessarily controls over the Judicial Council’s secondary rulemaking authority.” (*Ibid.*, citations omitted.) The council’s rule-making authority “is especially limited in areas where the Legislature has been active.” (*Id.* at p. 363.)

In *Trans-Action*, the court found that there was a statutory scheme under which a court could impose sanctions and that the statutes set certain conditions and monetary limits on the imposition of sanctions. Because the rule purported to confer on courts a broad power to award sanctions, which went beyond the more limited powers available under applicable statutes, the court concluded that the rule was invalid “to the extent it fails to conform with the statutory conditions for an award of attorney’s fees as sanctions.” (*Trans-Action Commercial Investors, Ltd.*, *supra*, 60 Cal.App. 4th at p. 355.)

The appellate court’s summary of cases addressing rule-making authority is instructive:

A rule of court may go beyond the provisions of a related statute so long as it reasonably furthers the statutory purpose. (*Butterfield v. Butterfield* (1934) 1 Cal.2d 227, 228 [rule requiring points and authorities in support of motion for change of venue]; *Mann v. Cracchiolo* (1985) 38 Cal.3d 18, 29 [rule limiting time to file opposition to summary judgment motion].) However, if a statute even implicitly or inferentially reflects a legislative choice to require a particular procedure, a rule of court may not deviate from that procedure. (*People v. Hall* (1994) 8 Cal.4th 950, 961–962 [rule limiting aggravating factors to be considered in imposing sentence enhancements conflicted with Legislature’s evident intent to apply full range of factors]; *California Court Reporters Assn. v. Judicial Council of California* (1995) 39 Cal.App.4th 15, 26–31 [rule permitting electronic

recording of superior court proceedings conflicted with implicit legislative intent that such proceedings be stenographically recorded]; *Cox v. Superior Court* (1993) 19 Cal.App.4th 1046, 1050–1051 [local rule requiring notice of motion to suppress at preliminary hearing conflicted with statute raising “reasonable inference” that no prior notice is required].)

(*Trans-Action Commercial Investors, Ltd.*, *supra*, 60 Cal.App.4th at p. 364.)

As stated above, the Legislature has enacted several statutes in various areas that address council-provided judicial training and education. Those statutes are reviewed below.

With respect to criminal law matters, Penal Code section 1170.5 provides that the council shall conduct annual sentencing institutes for trial court judges, pursuant to section 68551 of the Government Code, to assist judges in imposing appropriate sentences. Penal Code section 13828.1 provides that the council shall establish and maintain an ongoing program to provide training for the judicial branch relating to the handling of child sexual abuse cases.

Regarding family and juvenile law, Welfare and Institutions Code section 264 provides that, under the council’s direction and supervision, the judges of the juvenile courts shall meet in statewide or regional conferences for the purpose of improving the administration of juvenile justice. In addition, Welfare and Institutions Code section 304.7 states that the council shall develop and implement standards for the education and training of all judges who hear dependency matters. Government Code sections 68553 and 68555 provide that the Judicial Council shall establish judicial training programs for judges handling family law and domestic violence matters.

As part of the Lockyer-Eisenberg Trial Court Funding Act of 1997, the Legislature enacted Government Code section 68088. Section 68088 states that the council “may provide by rule of court for ethnic, and gender racial, bias, and sexual harassment training for judges.”

More generally, with respect to orienting new judges and keeping judges apprised of new developments in the law, Government Code section 68551 states, in relevant part, that the “Judicial Council is authorized to conduct institutes and seminars from time to time . . . for the purpose of orienting judges to new judicial assignments, keeping them informed concerning new developments in the law and promoting uniformity in judicial procedure.”

Those arguing against the council’s authority to adopt minimum judicial education rules point to the above-referenced statutes as providing the council with some authority to develop training

programs (in certain areas), but not providing specific authority to the council to impose minimum education requirements on judges.⁶

We conclude, however, that a rule requiring minimum judicial education is not inconsistent with the current statutes that address judicial education. First, a rule requiring minimum education for judges does not conflict with any of those statutes. Those statutes reflect the importance placed on judicial education by the Legislature. In addition, in each of those statutes the Legislature has placed responsibility with the council to establish training programs, conduct institutes or seminars, and provide direction and supervision for statewide educational conferences. We believe that the better argument is that those statutes do not limit the council's authority, but rather reflect a broad legislative intent that the council address judicial education in a comprehensive manner, to improve the administration of justice by providing for an educated judiciary. There is no indication of any legislative intent to limit the council's authority to require minimum judicial education.⁷ (Cf. *California Court Reporters Assn. v. Judicial Council of California* (1995) 39 Cal.App.4th 15 [finding rules of court that allowed electronic recording of superior court proceedings inconsistent with statute and the legislative intent behind the statutory scheme].)

Second, even if a rule of court that *requires* minimum judicial education goes beyond the provisions of most of the current statutes that address judicial education, as some opponents of the proposal have argued, such a rule would reasonably further the purpose of those statutes. (See *Butterfield v. Butterfield* (1934) 1 Cal.2d 227, 228 [a rule of court may go beyond the provisions of a related statute so long as it reasonably furthers the statutory purpose].) The legislative intent reflected in those statutes is that the council provide training to judges so that

⁶ Government Code sections 68551 and 68552 and Welfare and Institutions Code section 264 were enacted as part of a bill requested by the council. (See Sen. Bill 498; Stats. 1965, ch. 412.) As stated above, Government Code section 68551, the most general of these statutes, "authorizes" the council to conduct certain institutes and seminars. Those arguing against the council's authority to adopt a minimum judicial education rule may contend that the council's request for this bill authorizing it to provide institutes and seminars indicates the council's awareness that it lacks the authority to enact rules requiring minimum judicial education absent legislation. (See Sen. D. Grunsky, sponsor of Sen. Bill 498, letter to Governor Edmund G. Brown, May 17, 1965 ["The purpose of the bill is to broaden the Council's authority to conduct judicial seminars and institutes. . . . This legislation would broaden this authority so that a continuing education program could be arranged for the judiciary, paralleling the very effective system now used for lawyers in California."].) We conclude, however, that such an argument would be unpersuasive because these statutes were passed before the 1966 expansion of the council's constitutional rule-making authority to include "rules for court administration."

⁷ Indeed, by other actions, the Legislature has shown its support for judicial education. Since 1976, three years after CJER was created with grant funding, CJER has been a permanent part of the judicial system, funded by the Legislature through annual appropriations to the Judicial Council. (See Witkin, Cal. Proc. (4th Ed.), Courts, section 437, p. 504.)

they may effectively perform their duties in an ethical manner free from bias. Rules requiring minimum judicial education would do exactly that. Therefore, we conclude that a rule requiring minimum judicial education would not be found inconsistent with the current statutes addressing judicial education, and indeed would be consistent with those statutes.

C. The adoption of minimum judicial education rules is not prohibited by the California Constitution provision prescribing the qualifications for holding judicial office because the rules would not alter those qualifications.

Some have questioned whether minimum judicial education rules would add a qualification for judicial office that is not otherwise required by the state Constitution and therefore would violate the Constitution. For the reasons set forth below, we conclude that the proposed rules would not add a qualification for holding judicial office.

Article VI, section 15 (hereinafter “section 15”) prescribes the qualifications for holding judicial office:

A person is ineligible to be a judge of a court of record unless for 10 years immediately preceding selection, the person has been a member of the State Bar or served as a judge of a court of record in this State.

It is settled that this constitutional provision is exclusive with respect to the eligibility of a candidate to assume judicial office. In *Wallace v. Superior Court* (1956) 141 Cal.App.2d 771, 774, the Court of Appeal struck down a residency requirement for election to superior court judgeship on the ground that the predecessor to section 15, former article VI, section 23,⁸ is exclusive with respect to the requirements for judicial office. A subsequent Supreme Court case also relied on former article VI, section 23 in striking down a residency requirement for Supreme Court justices during their terms of office, although language in the case suggested that it did so because the requirement had no reasonable relation to the performance of a judge’s duties. (*People v. Chessman* (1959) 52 Cal.2d 467, 500 [“When a candidate for justice meets the requirement of section 23 of article VI and, after election or appointment, qualifies by taking the oath . . . , the Legislature cannot properly require, by way of additional qualification, anything

⁸ Former article VI, section 23 was repealed Nov. 8, 1966 and replaced with article VI, section 15. It does not differ from article 15 in any way relevant to this discussion. Former article VI, section 23 provided: “No person shall be eligible to the office of a Justice of the Supreme Court, or of a district court of appeal, or of a judge of a superior court, or of a municipal court, unless he shall have been admitted to practice before the Supreme Court of the State for a period of at least five years immediately preceding his election or appointment to such office”

(such as change of residence) which has no reasonable relation to the performance of his duties.”].)⁹

However, section 15 does not prohibit the Legislature or the council from adopting statutes and rules requiring that judges engage in or refrain from specific actions. And, a number of such statutes and rules have been enacted and enforced, without any claim that they violate section 15. For example, under the Political Reform Act ((PRA) (Gov. Code, § 81000 et seq.), a judge is required to file a financial disclosure statement on filing for election (Gov. Code, § 82001), after assuming office (Gov. Code, § 82002), annually thereafter (Gov. Code, § 82003), and on leaving office (Gov. Code, § 82004). The required financial disclosure statement must include the name and address of each source of income; the amount and the date on which any gift was received; and the annual interest rate, term, and security given for any loan. (Gov. Code, § 82007.)

Likewise, under Code of Civil Procedure provisions, a judge must recuse himself or herself if, among other circumstances, the judge has personal knowledge of disputed evidentiary facts concerning the proceeding, served as a lawyer in the proceeding, has a financial interest in the subject matter of the proceeding or in a party to the proceeding, or the judge believes his or her recusal would further the interests of justice (Code Civ. Proc., § 170.1(a)(1)–(3), (6)(A)(i).) A judge is also required to notify the presiding judge if a judge determines himself or herself to be disqualified and may not further participate in the proceeding, with limited exceptions, unless the disqualification is waived by the parties. (Code Civ. Proc., § 170.3(a)(1).) A judge must state the basis of the disqualification on the record in order to accept a waiver of the disqualification. (Code Civ. Proc., § 170.3(b)(1).) Code of Civil Procedure section 170.9 also prohibits a judge from accepting gifts totaling more than \$250 from a single source in any calendar year.

In addition, all judges have duties set out in rule 6.608, including hearing all assigned matters unless disqualified or otherwise excused, requesting approval from the presiding judge for an intended absence of more than one-half day, and following the directives of the presiding judge in matters of court management and administration. Among the many duties of a presiding judge are the following: to make judicial assignments, taking into account specific factors; to supervise

⁹ In *People v. Bowen* (1991) 231 Cal.App.3d 783, the Court of Appeal considered whether the *Chessman* court intended to create a “reasonable relation” test for evaluating requirements for holding office imposed on judges during their tenure, as distinguished from the eligibility for assuming office invalidated in *Wallace*. The court noted: “Though *Chessman* cited *Wallace*, the court appeared to treat the question before it as distinct: While the Legislature could not add any eligibility requirements, it could add tenure requirements provided they bore a reasonable relation to the duties of office The Attorney General has previously so interpreted *Chessman* (Cal. Atty. Gen., Indexed Letter, No. IL 76-137 (July 21, 1976) p. 5) but characterized it as dicta.” (*People v. Bowen, supra*, at p. 787.) The Attorney General more recently issued a formal opinion declaring the statute at issue in *Bowen* to be unenforceable on the ground that it violated section 15. (78 Ops.Cal.Atty.Gen 204 (1995).)

the court's calendar; to adopt a process for scheduling judges' vacations and absences from court; to supervise and monitor the number of causes under submission; to support and encourage judges to engage in community outreach; to establish responsible budget priorities and submit budget requests; to approve expenditures and the allocation of funds; and to prepare a long-range strategic plan. (Cal. Rules of Court, rule 6.603.)

These statutes and rules, like the proposed minimum education rules and unlike those struck down in *Chessman* and *Wallace* do not set forth prerequisites for assuming office or qualifications for holding office. Like the proposed minimum education rules, the statutes and rules state duties with which judges must comply. The consequences of failing to comply are not addressed in these existing statutes and rules, nor are they addressed in the proposed minimum education rules. Enforcement of the statutes and rules, including sanctions to be applied for noncompliance, are left to those entities that have enforcement authority over the particular laws, the Fair Political Practices Commission, the Commission on Judicial Performance (CJP), and, ultimately, the California Supreme Court. (See *Doan v. Commission on Judicial Performance* (1995) 11 Cal. 4th 294, 305-306 [judge charged by CJP with willful misconduct, conduct prejudicial to the administration of justice, and persistent nonperformance of duties for, among other things, failing to report in annual statement of economic interests certain loans that she had received in violation of the PRA].) In addition, enforcement with respect to all of these statutes and rules would include a number of sanctions other than removal from office. For example, among other actions, the CJP may censure a judge for willful misconduct in office and may publicly or privately admonish a judge found to have engaged in an improper action. (Cal. Const., art, VI, § 18(d).)

Accordingly, we conclude that the proposed minimum education rules, like the various statutes and rules currently in place that govern judges, would not be barred by section 15. Unlike the statutory provisions challenged in *Wallace* and *Chessman*, the proposed judicial education rules do not state qualifications for assuming or holding office. Rather, if adopted, they would fall in the same category as the numerous other conditions with which judges must comply while in office.

DCB/SG/sl
Attachment

ATTACHMENT

California Statutes Addressing Judicial Education

California Government Code

Section 68551: States that the council is “authorized” to conduct institutes and seminars to orient judges to new judicial assignments, to keep them informed of new developments in the law, and to promote uniformity in judicial procedure.

Section 68552: States that the council “may” publish and distribute manuals, guides, and other educational materials to assist the judiciary.

Section 68553: States that the council “shall” establish judicial training programs for family law judges.

Section 68555: States that the council “shall” establish judicial training programs for judges who perform duties in domestic violence matters.

Section 68088: States that the council “may provide by rule of court for racial, ethnic, and gender bias, and sexual harassment training for judges.”

California Welfare and Institutions Code

Section 264: Provides that under the council’s direction and supervision, the judges of the juvenile courts shall meet in statewide or regional conferences for the purpose of improving the administration of juvenile justice.

Section 304.7: States that the council “shall” develop and implement standards for the education and training of all judges who hear dependency matters. The statute also requires the council to submit an annual report to the Legislature on judicial compliance with these education and training standards.

California Penal Code

Section 1170.5: States that the council “shall” conduct annual sentencing institutes for trial court judges pursuant to section 68551 of the Government Code to assist judges in imposing appropriate sentences.

Section 13828: States legislative declaration regarding the need to develop and provide training programs for the handling of judicial proceedings involving the victims of child sexual abuse.

Section 13828.1: States that the council “shall” establish and maintain an ongoing program to provide training for the judicial branch relating to the handling of child sexual abuse cases.